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NORTH DAKOTA  
STATE LABORATORIES DEPARTMENT

A. N. Lavik, Director

**BULLETIN NO. 76**

R. O. Baird  
State Food Commissioner and Chemist

BISMARCK, N. DAK.

JULY 1945

**North Dakota Laws**  
Covering the Operations of the  
State Laboratories Department  
With  
**Rules, Regulations and Standards**  
Pertaining to  
**Foods, Drugs, Beverages**  
**and Cosmetics**



STATE LABORATORIES COMMISSION

FRED G. AANDAHL, Governor, Chairman

OTTO KRUEGER, State Treasurer

NELS JOHNSON, Attorney General



Buy "Dakota Maid" Flour





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Covering the Operations of the  
State Laboratories Department

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**Rules, Regulations and Standards**

Pertaining to

**Foods, Drugs, Beverages  
and Cosmetics**

NOTE: The following laws have not been included in this bulletin and copies, in mimeographed form, may be obtained by writing to the State Laboratories Department:

Commercial Feeding Stuffs Law  
Fertilizer Law  
Insecticide and Fungicide Act  
Livestock Medicine Act  
False Advertising Law

STATE OF NORTH DAKOTA  
OFFICE OF ATTORNEY GENERAL  
BISMARCK

NELS G. JOHNSON  
Attorney General

P. O. SATHRE  
I. A. ACKER  
C. E. BRACE  
P. B. GARBERG  
Assistants

June 27, 1945.

State Laboratories Department  
Bismarck, North Dakota

Att: R. O. Baird  
State Food Commissioner & Chemist

Dear Sir:

I beg to advise that I have examined the rules and regulations proposed by your department, and it is my opinion that the same are valid and comply with the statutory requirements and will be in full force and effect when promulgated and filed by your department as required by law.

Very truly yours,

NELS G. JOHNSON  
Attorney General

by P. O. SATHRE  
Ass't. Attorney General

POS:me



## STATE LABORATORIES DEPARTMENT

19-0101. **Definitions of Terms Used in Title.** In this title, unless the context or subject matter otherwise requires:

1. "Department" shall mean the state laboratories department;
2. "Commission" shall mean the state laboratories commission; and
3. "Person" shall import both the singular and the plural, as the case demands, and shall include individuals, partnerships, corporations, companies, and associations, or two or more individuals having a joint or common interest.

19-0102. **State Laboratories Department; State Laboratories Commission; Members; Duties; Meetings; Quorum.** The state laboratories department shall be maintained as one of the departments of the state. The management, control, and supervision of such department shall be placed in the state laboratories commission, which shall be composed of the governor, who shall act as chairman thereof, the state treasurer, and the attorney general. It shall meet whenever necessary, and at least once a month. The commission shall adopt such rules and regulations as may be necessary for the full and complete enforcement of the regulatory laws of the state under its jurisdiction. A majority of the members of the commission shall constitute a quorum for the transaction of business.

19-0103. **Director of Department; Appointment; Bond; Oath; Salary.** The commission shall appoint a director of the department who shall serve at the will of the commission. He shall act as secretary of the commission and shall keep such minutes and books as the commission shall determine. Subject to the supervision of the commission, he shall have general charge of the department. Before assuming the duties of his office, he shall furnish a bond in the sum of twenty-five thousand dollars for the faithful performance of his duties and the proper accounting for all moneys collected in his office. The premium for such bond shall be paid as an expense of the department. The director shall take the oath of office and file the same in the manner required of other state officers. He shall receive an annual salary of not more than three thousand dollars, payable monthly.

19-0104. **Assistant Director; Qualifications; Appointment; Bond; Salary; Duties.** The commission shall appoint a competent chemist who shall be assistant director of the department. He shall be designated as the state food commissioner and chemist and shall serve at the will of the commission. He shall furnish a bond in the sum of ten thousand dollars conditioned for the faithful performance of his duties and the proper accounting for all moneys collected in his office, and shall qualify in the manner in which the director of the department is required to qualify. The annual salary of the assistant director shall be fixed by the commission. The assistant director shall have charge and supervision of all laboratory work and the laboratory equipment, and shall be in charge of the department in case of the director's absence or inability to act. He shall have his office in the department.

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**19-0109. Right of Inspection.** For obtaining information regarding suspected violations of any provision contained in this title, the department, its inspectors and agents, shall have free access and ingress to and egress from all places, except private homes, and all vehicles of transportation where and in which any of the products, articles, compositions, or things designated in any chapter in this title are manufactured, stored, sold, exposed for sale, prepared for sale, held, or transported. Such inspectors and other agents of the department may open any car, vehicle, package, can, jar, tub, tank, or other receptacle containing any such product, articles, composition, or thing for the purpose of inspection, and may take therefrom such sample as may be required to permit such contents to be inspected and analyzed, upon paying or offering to pay to the person entitled thereto the full value of the sample so taken. Agents, bookkeepers, transportation officers, and other employees connected with or having control over any place or vehicle in which any such products, articles, compositions, or things, are manufactured, stored, sold, exposed for sale, prepared for sale, held, or transported, shall render all assistance and aid within their power to inspectors and agents of the department in carrying out the provisions of any chapter contained in this title. Any person obstructing any such agent or inspector of the department in making the entry or inspection or in taking the samples authorized under the provisions of this section or failing upon request to assist therein is guilty of a misdemeanor.

**19-0110. Department to Make Analyses, Inspections, and Examinations: Report of Examination as Evidence; Publication of Report.** The department shall make, or cause to be made, analyses, examinations, and inspections of all products, articles, compositions, or things included under any of the provisions of this title whenever such analyses, inspections, or examinations are necessary to determine whether any of such products, articles, compositions, or things violate in any particular any provision of this title relating to the products, articles, compositions, or things in question, or violate any definition, standard, tolerance, rule, or regulation issued with regard to such products, articles, compositions, or things pursuant to any provision contained in this title. A copy of the report of the examination or analyses of any such product, article, composition, or thing, duly authenticated by the chemist making the analysis or examination, when given under oath, shall be prima facie evidence in all courts of the matters and facts therein contained. The department may collect samples of any such product, article, composition, or thing for the purpose of making analyses, inspections, and investigations in connection with research carried on by it, and may publish the reports thereof for the information of the public.

**19-0111. Possession of Prohibited or Regulated Products, Articles, Compositions, or Things as Prima Facie Evidence.** The having in possession of any product, article, composition, or thing, the manufacture, sale, or use of which is restricted, regulated, or forbidden by any provision of this title, shall be prima facie evidence of the intent to sell, manufacture, transport, possess, or use the same in violation of the



provisions of this title relating to such product, article, composition, or thing, as the case may be.

**19-0112. Seizure of Unlawful Products; Search Warrant.** A search warrant may be issued by any judge, justice of the peace, or police magistrate whenever probable cause is shown by affidavit or deposition under oath that any article, product, composition, or thing is being kept or is present upon certain premises which shall be particularly described or is in possession of any person who shall be named in the affidavit or deposition, and that such article, product, composition, or thing, is not in compliance with, or is being used or possessed contrary to, any applicable provision of this title or of any rule, regulation, standard, tolerance, or definition issued pursuant thereto. The search warrant shall be in substantially the form described in section 29-2906. It shall particularly describe the premises or the person who has possession of such article and shall be signed by the judge or magistrate with the name of his office, and shall be directed to any peace officer of the county or to the department or any of its agents. The warrant shall command the peace officer or agent of the department to search the persons or places named and to seize all and any products, articles, compositions, or things of the kind described therein which may be held in violation of any applicable provision of this title, and to bring such products, articles, compositions, or things before the judge or magistrate.

**19-0113. Department May Seize Unlawful Products, Articles, Compositions, or Things Without Search Warrant.** The department may seize any product, article, composition, or thing which is manufactured, sold, used, transported, kept or offered for sale, use or transportation, or which is held in possession with intent to use, sell, or transport the same, in violation of any provision of this title applicable to such product, article, composition, or thing, or in violation of any rule, regulation, standard, or definition relating to such product, article, composition, or thing established pursuant to any provision of this title. The director, assistant director, inspector, agents, or employees of the department, shall have the powers of a constable. Such seizure may be made without warrant, but in such case, as soon as practicable, the person suspected of violation shall be arrested and prosecuted therefor.

**19-0114. Service and Return of Search Warrant and Proceedings Thereon.** The provisions of sections 29-2901 to 29-2919, inclusive, as to the service and return of a search warrant, and hearing, and return thereon to the district court, shall govern in cases of search warrants issued pursuant to the provisions of this chapter except that testimony of witnesses need not be reduced to writing. If the magistrate finds that the property seized is property of the kind described in the search warrant and that there is probable cause to believe that the grounds on which the search warrant was issued existed, he shall send the property so seized to the district court, together with his return. If he finds that

there is not probable cause to believe that the grounds on which the search warrant was issued existed, he shall order the property returned to the person from whom it was taken.

**19-0115. Agent Is Punishable for Violation of Any Provision of Title.** No person who shall commit or assist in committing any offense defined in this title shall be exempt from conviction and punishment therefor because he acted as an agent, employee, or representative of another. The act, omission, or violation of any officer, agent, or other person acting for or employed by any person as defined in this chapter, within the scope of his employment or office, in every case shall be deemed to be the act, omission, or failure of the employer or principal as well as that of the person committing the offense.

**19-0116. Enforcement by Department; Duty of State's Attorney to Prosecute.** The department shall enforce the provisions contained in this title and may prevent the manufacture or sale of products, articles, compositions, or things not complying with any provisions of this title applicable thereto. The department shall report each violation of any such provision to the state's attorney of the county within which such violation occurred. Any state's attorney to whom the department or any of its inspectors or agents shall report any such violation, without delay, shall cause appropriate proceedings to be instituted for the enforcement of the appropriate penalty.

**19-0117. Form of License to be Issued.** All licenses and permits issued by the department shall be uniform insofar as practicable and shall be on a suitable blank provided and prescribed by the commission. If two or more licenses or permits are issued to the same person or corporation, they shall be on one and the same blank when possible and practicable.

## **FOOD AND DRUG LAW**

**19-0201. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Food" shall mean all articles, whether simple, mixed, or compound, used for, entering into the composition of, or intended for use in, the preparation of food, drink, confectionery, or condiment for man or other animals;
2. "Drug" shall mean all substances and preparations recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them, and any substance or mixture of substances intended or designed to be used for the cure, mitigation, prevention, or treatment of disease of man or other animals, and all substances and preparations, other than food, intended to affect the structure or any function of the body. Soap shall be included as a drug only when medicinal or curative qualities are claimed therefor;
3. "Cold storage" is the keeping of food in a place artificially cooled to a temperature of forty degrees Fahrenheit or below



but shall not include the keeping of food in such a place within a private home, hotel, or restaurant, nor in a refrigerator car; and

4. "Sale" and "Sell" shall mean the keeping, offering, or exposing for sale, use, transportation, or exchange of any restricted, regulated, or prohibited article, the having of any such article in possession with intent to sell, use, transport, or exchange the same, and the storing, carrying, or handling thereof in aid of traffic therein, whether done or permitted in person or through others.

**19-0202. Department to Establish Definitions, Rules, Regulations, and Standards of Foods and Drugs.** The department shall fix, adopt, publish, and enforce definitions, rules, regulations, and standards of quality, purity, and strength of articles of food and drugs for which no definitions, rules, regulations, and standards are prescribed by law, for the purpose of:

1. Securing uniformity, as far as practicable, in the laws of this state and of the federal government and the ordinances of municipalities within this state;
2. Preventing fraud and deception in the manufacture, use, sale, and transportation of food;
3. Preserving the public health; and
4. Carrying out the intent of this chapter.

Definitions, rules, regulations, and standards fixed, adopted, and published under the provisions of this chapter shall have the force and effect of law.

**19-0203. Unlawful to Sell Adulterated or Misbranded Foods and Drugs.** No person shall manufacture, sell, offer, or expose for sale or delivery, or have in his possession for sale or delivery, any article of food or drugs which is adulterated or misbranded, or which otherwise violates any provisions of this chapter or any rule or regulation issued pursuant thereto.

**19-0204. Adulteration of Food; What Constitutes.** For the purposes of this chapter, food shall be deemed to be adulterated:

1. If any substance has been mixed or packed with it so as to lower, reduce, or injuriously affect its quality, strength, or fitness for consumption;
2. If any substance has been substituted wholly or in part for the article;
3. If any valuable constituent of the article has been abstracted in whole or in part;
4. If it is mixed, colored, powdered, coated, stained, or otherwise treated in a manner whereby damage or inferiority is concealed or the article is made to appear better than it really is, or if it is so treated for the purpose of imitating another article of recognized quality;
5. If it contains any poisonous or deleterious substance or ingredient, whether the same is naturally present in the food, or has

been added thereto, which may render the article injurious or detrimental to health;

6. If it consists in whole or in part of filthy, decomposed, or putrid animal or vegetable substance or of any portion of an animal unfit for food, or if it is the product of a diseased animal or one that has died otherwise than by slaughter; or
7. If it does not conform to the standard of purity or quality established for the article.

**19-0205. Adulteration of Drugs; What Constitutes.** For the purpose of this chapter, a drug shall be deemed to be adulterated:

1. If, when a drug is sold under or by a name recognized in the United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, or the National Formulary, it differs from the standard of strength, quality, or purity as determined by the tests or methods of assay set forth therein. Whenever tests or methods of assay have not been prescribed therein, or whenever such tests or methods of assay as are prescribed are insufficient for the purpose of determining whether or not the drug complies with such standard, the drug may be examined by other recognized tests or methods of assay. No drug shall be deemed to be adulterated because it differs from the standard of strength, quality, or purity set forth in the United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, or the National Formulary, if the standard of strength, quality, or purity of such drug is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case, it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not those of the United States Pharmacopoeia;
2. If, when a drug is sold under or by a name not recognized by the United States Pharmacopoeia, Homeopathic Pharmacopoeia of the United States, or National Formulary, its strength, quality, or purity falls below the professed standard of strength, quality, or purity under which it is sold; or
3. If the drug contains any methyl alcohol, or if it consists in whole or in part of any filthy, decomposed, or putrid substance, or if its container is composed in whole or in part of any poisonous or deleterious substance which may render it injurious to health.

**19-0206. Misbranding: General Application.** The term "misbranding" as used in this chapter shall apply to all drugs, foods, or articles which enter into the composition of food if:

1. The package in which the same is contained or any label attached thereto shall bear any statement, design, or device re-



garding such drug, food, or article, or the ingredients or substances contained therein, which is false or misleading in any particular;

2. The food or drug product is falsely branded as to the locality, state, or country of its origin or in which it is manufactured or produced; or
3. The package in which the same is contained or any label attached thereto does not contain the true name and address of the manufacturer, jobber, or other person responsible for its being placed in commerce.

**19-0207. Misbranding of Foods: What Constitutes.** For the purposes of this chapter, a food shall be deemed to be misbranded:

1. If it is offered for sale under the distinctive name of another article;
2. If it is labeled or branded so as to deceive or mislead the purchaser, or to purport to be a foreign product when it is not a foreign product;
3. If the contents of the package as originally put up have been removed, in whole or in part, and other contents placed in such package;
4. If the label fails to bear a statement of the quantity or proportion of alcohol in the product, if alcohol is contained therein;
5. When the article is in package form, if the name of the article together with the quantity of the contents in terms of weight, measure, or numerical count are not plainly and conspicuously marked on the outside of the package;
6. When the article is in package form, if the package is not filled with the food it purports to contain, irrespective of whether the quantity of the contents is plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count;
7. If the package containing the food, or the label thereon, shall bear any statement, design, or device regarding the ingredients or substances contained therein which is false or misleading in any particular;
8. If it is an imitation of another article and it is not marked with the word "imitation" equally conspicuous with and immediately adjoining the name of the imitated article;
9. If it is a compound for which no standard of purity or quality has been established and it is not marked with the word "compound" equally conspicuous with and immediately adjoining the name of the article; or
10. If such food is an imitation, compound, blend, mixture, or product sold under its own distinctive name and the package, bottle, or other container does not bear upon its label, when necessary to prevent fraud or deception or to convey to the purchaser the

true nature of the product, a plain statement of the ingredients contained in such imitation, compound, blend, mixture, or product. If such statement of the ingredients alone is insufficient for the purpose stated in this subsection, the food shall be deemed to be misbranded unless the percentage of each ingredient contained therein is shown on the label in addition to the other matters required by this section.

**19-0208. Misbranding of Drugs: What Constitutes.** For the purposes of this chapter, a drug shall be deemed to be misbranded:

1. If it is an imitation of, or is offered for sale under the name of, another article;
2. If its container is made, formed, or filled so as to mislead the purchaser;
3. If the contents of the package as originally put up have been removed, in whole or in part, and other contents placed in such package;
4. If the package or label fails to bear a statement of the quantity or proportion of alcohol or of any narcotic or habit forming drug in the article, if any alcohol, narcotic, or habit forming drug is contained therein;
5. If the package or label bears or contains any statement, design, or device regarding the curative or therapeutic effect of the article, or of any of the ingredients or substances contained therein, which is misleading, false, or fraudulent;
6. When the article is in package form, if the name of the article together with the quantity of the contents thereof in terms of weight, measure, or numerical count are not plainly marked on the outside of the package;
7. If it is dangerous to health when used in the dosage or with the frequency or duration prescribed in the labeling or advertising thereof;
8. If it is not designated solely by a name recognized in the United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, or the National Formulary, and its label fails to bear a common or usual name of the drug if such there be;
9. If it is fabricated from two or more ingredients and the name of each active ingredient, and the quantity, kind, and proportion of any alcohol contained therein, is not given;
10. If a statement of the ingredients contained in the drug is insufficient alone to prevent fraud or deception or to convey to the purchaser the true nature of the product, and the percentage of each ingredient is not given;
11. If its label fails to bear, plainly and conspicuously marked thereon, adequate directions for its use, or adequate warning against its use, under such pathological conditions, or by children, where its use may be dangerous to health, or if its label fails to contain



adequate directions and cautions against unsafe dosage, methods, or duration of its administration or application;

12. If its name is recognized in the United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, or of the National Formulary, or if it purports to be a drug the name of which is so recognized, and it is not packaged and labeled as prescribed therein; or
13. If it is a drug liable to deterioration and it is not packaged in the form and manner, or if its label fails to bear a statement of the precautions, required for the protection of public health.

**19-0209. Labeling of Flour; Contents of Label.** Flour manufactured in whole or in part from wheat shall not be sold, delivered, or offered, or exposed for sale or delivery, or possessed for sale or delivery in this state, unless each and every package, container, or barrel containing such flour bears on the outside thereof, in a conspicuous place, a legibly and plainly written or printed label or statement giving the approximate or average percentage of each kind of wheat used in the manufacture of the flour, the state or states in which the wheat or wheats were produced, and the percentage of protein in the flour. The form of the label shall be subject to the approval of the department and shall be substantially as follows:

Approximate or average percentage of all wheats used in this flour:

Name of State where produced	% Hard Spring Wheat	% Durum Wheat	% Hard Winter Wheat	% Soft Winter Wheat	% Other Variety Wheat
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.....

Protein, contains not less than.....%

**19-0210. Meats: Sale of; Regulations; Misdemeanor.** The meat of an animal shall not be sold for human consumption unless it is the product of a healthy animal. Meat of an animal slaughtered during the period of heat, advanced pregnancy, or immediately preceding or following parturition, and the meat of a calf less than four weeks old shall not be sold for human food. Hogs or other animals to be slaughtered for food shall not be permitted to eat filthy, diseased, or decomposed food, nor shall they be kept in a filthy or insanitary place. Nothing contained in this section shall be construed to conflict with the law relating to the sale of infected meat or the rules and regulations issued pursuant thereto by the state livestock sanitary board. Any person who knowingly shall kill, or cause to be killed, for the purpose of sale as food for man, any animal of the kind described in this section, or who knowingly shall have in his possession with intent to sell the same as food for man the meat of any such animal, shall be guilty of a misdemeanor and shall be subject to the penalty hereafter provided in this chapter.

**19-0211. Butter and Imitation Butter; Labeling.** The following products shall be appropriately labeled so as clearly to advise the purchaser of the true nature of the product:

1. Dairy butter;
2. Creamery butter;
3. Oleomargarine;
4. Butterine;
5. Renovated butter;
6. Compounds of or substitutes for any of the preceding products, whether compounded or prepared from animal or vegetable fats or oils;
7. Homogenized, reconstructed, filled, or manufactured products from which the natural butterfat has been abstracted in whole or in part and other animal or vegetable fats or oils substituted therefor; and
8. Compounds of, or products prepared from, any of the products mentioned in subsection 7.

**19-0212. Use of Butter Substitute on Popcorn; Posting Notice.** Any person, firm, or corporation selling, or offering for sale, popcorn upon which any oil or fat other than butter has been used shall post in a conspicuous place on the popcorn machine and in the room in which the popcorn is sold or offered for sale a sign which easily may be seen giving in letters not smaller than one-half inch high and one-half inch wide, the name of the oil or fat used on such popcorn.

**19-0213. Storage and Cold Storage Products; Labeling.** No food shall be sold as fresh when it has been held in storage or cold storage for a period so long that according to good practice the quality of the food no longer is being improved, or when there is deterioration in the food, or when the storage product is not as desirable as the fresh product. If storage, cold storage, or other than fresh products are sold, they must be labeled so as to advise the purchaser fully of the nature of the product entering into the transaction. All storage or cold storage products shall be stamped, labeled, or tagged with the date when they were received in storage and the date when they were removed therefrom. Such stamp, tag, or label shall not be removed by any subsequent seller.

**19-0214. Sale in Deceptive Packages Prohibited; Department May Establish Rules Relating to Size and Weight of Packages of Foods and Drugs.** No person, firm, or corporation shall manufacture, sell, or expose for sale, any article of food or drug in any package or container, the size or shape of which may deceive or tend to deceive the purchaser of such product as to the contents of said package or container. In order to prevent fraud and deception, the department may establish, publish, and enforce rules and regulations relative to the size, weight, or style of package of all drug and food commodities, except lard and bread, and such rules and regulations shall have the force and effect of law.



**19-0215. Lard; Quantities Which May Be Sold.** Every lot of lard, lard compounds, or lard substitutes, unless sold in bulk, shall be sold in pails or other containers holding one, three, or five pounds net weight or some whole multiple of these numbers and not any fractions thereof.

**19-0216. Bread; How Sold.** No person shall sell, offer, or expose for sale, or have in his possession with intent to sell or transport, any bread, the loaf of which does not weigh either sixteen ounces or twenty-four ounces avoirdupois or a whole multiple of sixteen ounces avoirdupois. The weights shall apply alike to each unit of twin or multiple loaves. A loaf shall be of the required weight at any period from the time of baking the same until twelve hours thereafter. The required weight standards shall apply alike to wheat bread, white bread, milk bread, rye bread, raisin bread, currant bread, brown bread, graham bread, whole wheat bread, and other similar kinds of farinaceous substances baked in loaves and known and designated as bread. The average weight of loaves shall be as often above as below the permissible weights. The weight standards defined in this section shall not be construed to apply to cakes, buns, biscuits, and similar small unit products.

**19-0217. Importation and Sale of Infected Fruit a Misdemeanor.** Any person who shall import into this state, sell, offer for sale, or have in his possession for sale or barter, any fruit which has been infected or infested with peach blight, peach mildew, peach twig borer, San Jose scale or other scale insects, apple scab, codling moth larva or larvae, shall be guilty of a misdemeanor. If fruit bears the mark of any of the infections or infestations mentioned in this section, the mark shall be conclusive evidence that the fruit is infected or infested within the meaning of this section.

**19-0218. Food Establishment; Ventilation and Light Facilities for Convenience and Health of Employees and Patrons; Power of Department.** The provisions for ventilation and lighting and the toilet and washroom facilities, such as towels, washbowls, and soap, and the cuspidors and other facilities for the convenience, health, and safety of employees and patrons of any food establishment, shall be ample therefore and subject to the approval of the department as to their sufficiency, location, and condition.

**19-0219. Food Protected From Vermin: Presence of Vermin Renders Establishment Insanitary.** All doors and windows of a food establishment that may be opened or closed at will, during the fly season, shall be kept properly screened and flyproof. All foods kept, displayed, prepared, or offered for sale in any such place at all times shall be protected from contact with flies, roaches, ants, mice, rats, and other vermin or household pests. The presence of any such pests in a food establishment shall be deemed to render the same insanitary and the proprietor thereof liable to prosecution under this section.

**19-0220. Person Affected With Contagious Disease Not Employed in Food Establishment; Examinations.** No person who is affected with

any contagious or infectious disease in a communicable form shall be employed, or permitted to remain as an employee in any food establishment. If an inspector or agent of the department has reason to suspect that an employee in any such establishment is affected with any such disease, he may require a medical examination of such employee and a certificate of health with reference to him from the employer of such employee. The examination shall be made by a physician approved by the department, and the cost thereof shall be borne by the employer. If an employer fails to provide such a health certificate for himself or for an employee within a reasonable time after being notified to do so, he shall be deemed guilty of a misdemeanor.

**19-0221. Building or Vehicle in Which Food Is Prepared, Sold, Held, or Transported to Be Kept in Sanitary Condition.** Every building or other structure and every vehicle of transportation in which there is manufactured, prepared, held, sold, used, or transported any food, drug, or product to be used in the preparation of any food or drug, shall be kept and maintained in a clean and sanitary condition at all times. Food shall be kept covered, enclosed, or fully protected by other means at all times from avoidable contamination by any agencies that might serve to bring about or hasten its decomposition or that might render it filthy or infectious, poisonous, deleterious, or injurious to health.

**19-0222. All Facilities for Storing, Handling, Preparing Food, to Be Kept Sanitary.** All buildings, shelves, counters, storage bins, floors, walls, ceilings, scales, stoves, machines, refrigerators, and other facilities used for storing, handling, displaying, or preparing food products, shall be designed and well adapted for the purpose with strict regard for the principles of sanitation.

**19-0223. Apparel of Employees in Food Establishment.** The person and clothing of all employees in or about any food establishment shall be clean and when possible the personnel of such places shall be provided with special outer garments, aprons, white coats, or other apparel for use during the hours of employment.

**19-0224. Rooms in Which Food Stored, Prepared, or Sold Not to Be Used for Living Quarters.** No room or rooms used for the storage, display, preparation, use, or sale of food shall be used as a sleeping, dressing, or living room, nor shall any sleeping, dressing, or living room be adjacent to, nor shall it open into, any such place, nor shall dogs, cats, or other domestic animals be permitted to occupy such rooms.

**19-0225. Authority to Render Certain Foods Unsalable.** Whenever the department or any of its authorized agents shall find in any room, building, vehicle of transportation, or other structure or place, any meat, sea food, poultry, vegetables, fruits, or other perishable articles intended to be sold or used for human consumption, which are filthy, decomposed, infected, or which contain or consist of putrid animal or vegetable substance, or which may be unsafe, unwholesome, poisonous, deleterious,



or detrimental to health, such department, or any inspector or agent thereof, forthwith shall seize, condemn, and destroy the same or in any other manner render the same unsalable as human food.

**19-0226. Food or Drug Used in Violation of This Chapter a Nuisance; Abatement.** Any article of food or any drug which is adulterated, misbranded, insufficiently or improperly labeled, or any article of food which is poisonous, deleterious, or detrimental to health, or which is held, used, or transported in violation of any provisions of this chapter or of any rule, regulation, standard, or definition issued pursuant thereto, is declared to be a nuisance, and the attorney general or any of his assistants, the state's attorney of any county, or the department, may maintain an equitable action in the name of the state for abatement of any such nuisance. In such action, every person in whose possession such nuisance is found and the occupant, tenant, owner, manager, or person in charge of any building, vehicle of transportation, or other property in which the nuisance is found shall be made defendants. The action shall be instituted and tried in the manner in which other equitable actions are instituted and tried.

**19-0227. Disposition of Seized Articles When Abatement Action Is Brought.** In an action for the abatement of a nuisance as provided in section 19-0226, if judgment is rendered in favor of the plaintiff, the court shall provide for the destruction of the food or drugs or make such other judgment and decree as shall prevent the articles from being used, sold, or transported in violation of this chapter. In the case of perishable food or drugs, the court, at any time on the motion of any party, and upon ten days' notice to the other party to the action, may order the destruction of the same, or at any time may order that the property be returned to the person from whom it was taken upon his furnishing a bond conditioned that the article will not be sold, used, or transported in violation of any of the laws of this state, and further conditioned for the payment of any judgment for costs which may be entered in such action.

**19-0228. Abatement of Nuisance; Costs and Attorneys' Fees; How Paid.** If judgment in an abatement action brought under this chapter is rendered in favor of the plaintiff, the court also shall render judgment for a reasonable attorney's fee in said action in favor of the plaintiff and against the defendant. The attorney's fee shall be taxed and collected as other costs and when collected shall be paid to the attorney of the plaintiff. If such attorney is the attorney general, one of his assistants, or the state's attorney of the county in which the action is instituted, the attorney's fee shall be paid into the county treasury in the manner in which other costs in the action are paid.

**19-0229. Penalties.** Any person violating or failing to comply with any provision of this chapter or with any rule, regulation, definition, or standard issued pursuant thereto, is guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more

than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment.

**19-0230. Suspension of Requirements During War.** The state laboratories department, with the written approval of the governor, by written regulation, may suspend the requirement provisions of this chapter, except sections 19-0209 and 19-0217, for the duration of the present war.

**19-0231. Department to Issue Regulations; Governor to Approve.** If the state laboratories department shall determine it to be for the best interests of the state to suspend such requirements, it shall issue a written regulation setting forth such suspension and such new regulations as it may determine upon, including a reduction below the present statutory or industrial standard of the butterfat content of all dairy products. Such written regulations then shall be submitted to the governor and shall not be in force and effect until the governor approves the same in writing. Upon the issuance of such regulations the department shall give prompt public notice thereof. In the event that the state laboratories department shall determine that a regulation previously issued is no longer necessary, it, with the approval of the governor, may issue a new regulation modifying or entirely suspending the effect of such previous regulation.

**19-0232. Duration of War Defined.** The duration of the war is defined to extend until such time as the president or the congress, by proclamation or by enactment, shall declare the period of the war to be terminated.

**19-0233. Stock on Hand May Be Sold After War.** After the termination of the war, it shall be unlawful to ship food into the state of North Dakota which does not comply with the provisions of this chapter, but any goods already in the state at the termination of the war and in the hands of wholesalers or retailers within the state may be sold until such stock is exhausted.

## **NARCOTICS LAW**

**19-0301. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Physician" means a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment;
2. "Dentist" means a person authorized by law to practice dentistry in this state;
3. "Veterinarian" means a person authorized by law to practice veterinary medicine in this state;
4. "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares nar-



- cotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions;
5. "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written orders, but not on prescriptions;
  6. "Apothecary" means a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this chapter shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the pharmacy laws of this state;
  7. "Hospital" means an institution for the care and treatment of the sick and injured, approved by the department as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of the physician, dentist, or veterinarian;
  8. "Laboratory" means a laboratory approved by the department as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction;
  9. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee;
  10. "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made;
  11. "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts;
  12. "Marihuana" includes all parts of the plant *Cannabis Sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination;
  13. "Narcotic drugs" means coca leaves, opium, and every substance neither chemically nor physically distinguishable from them;
  14. "Federal narcotic laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs;

15. "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department;
16. "Dispense" includes distribute, leave with, give away, dispose of, or deliver; and
17. "Registry number" means the number assigned to each person registered under the federal narcotic laws.

**19-0302. Acts Prohibited.** It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this chapter.

**19-0303. Manufacturers and Wholesalers.** No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the department.

**19-0304. Qualification for Licenses; Suspension of Licenses.** No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the department that:

1. The applicant is of good moral character or, if the applicant is an association or corporation, that the managing officers are of good moral character; and
2. The applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

No license shall be granted to any person who, within five years, has been convicted of a willful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict. The department may suspend or revoke any license for cause.

**19-0305. Sale of Narcotics by Licensed Manufacturer or Wholesaler on Written Orders.** A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

1. To a manufacturer, wholesaler, or apothecary;
2. To a physician, dentist, or veterinarian;
3. To a person in charge of a hospital, but only for use by or in that hospital; or
4. To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

**19-0306. Official Written Order; Form and Use Of.** An official written order for any narcotic drug shall be signed in duplicate by the



person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of the provisions of this chapter. It shall be deemed a compliance with this section if the parties to the transaction have complied with the federal narcotic laws, respecting the requirements governing the use of order forms.

**19-0307. Sale of Narcotics by Licensed Manufacturer or Wholesaler on Special Written Order.** A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

1. On a special written order accompanied by a certificate of exemption, as required by the federal narcotic laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties;
2. To a person in charge of any aircraft upon which no physician is regularly employed, or to a physician or surgeon duly licensed in some state, territory, or the District of Columbia to practice his profession, or to a retired commissioned medical officer of the United States army, navy, or public health service employed upon such aircraft, for the actual medical needs of persons on board such aircraft, when not in port. Such narcotic drugs shall be sold to the person in charge of such aircraft or to a physician, surgeon, or retired commissioned medical officer of the United States army, navy, or public health service employed upon such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States public health service;
3. To a person in a foreign country if the provisions of the Federal Narcotic Laws are complied with.

**19-0308. Use of Narcotics by Person Purchasing the Same From Manufacturer or Wholesaler Restricted.** A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof, or a person in charge of any aircraft upon which no physician is regularly employed, or a physician or surgeon duly licensed in some state, territory, or the District of Columbia, to practice his profession, or a retired commissioned medical officer of the United States army, navy, or public health service employed upon such aircraft who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this chapter.

**19-0309. Possession of Narcotic Drugs Obtained From Licensed Manufacturer or Wholesaler Under This Chapter Is Lawful.** Possession or control of narcotic drugs obtained as authorized by sections 19-0305, 19-0306, and 19-0307 shall be lawful if in the regular course of the business, occupation, profession, employment, or duty of the possessor.

**19-0310. Sales by Apothecaries.** Sales of narcotic drugs may be made by apothecaries in accordance with the following provisions of this section:

1. An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of the provisions of this chapter. The prescription shall not be refilled;
2. The legal owner of any stock of narcotic drugs in a pharmacy, upon ceasing to deal in said drugs, may sell such stock to a manufacturer, wholesaler, or apothecary, but only on an official written order;
3. An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than twenty percent of the complete solution, to be used for medical purposes.

**19-0311. Professional Use of Narcotic Drugs.** Narcotic drugs may be used professionally in accordance with this section:

1. Physicians and Dentists. A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision;
2. Veterinarians. A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.



**19-0312. Preparations Exempted.** Except as otherwise in this chapter specifically provided, this chapter shall not apply to administering, dispensing, or selling at retail any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, not more than one grain of codeine or of any of its salts. The exemption authorized by this section shall be subject to the following conditions:

1. That the medicinal preparation administered, dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone; and
2. That such preparation shall be administered, dispensed, and sold in good faith as a medicine and not for the purpose of evading the provisions of this chapter.

Nothing in this section shall be construed to limit the quantity of codeine or of any of its salts that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this chapter.

**19-0313. Record of Narcotics Used or Disposed of.** Records of all narcotic drugs used or disposed of shall be kept in the manner prescribed by this section:

1. Physicians, Dentists, Veterinarians, and Other Authorized Persons. Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall be deemed a sufficient compliance with this subsection, however, if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of each such solution or other preparation applied by him to individual patients. No record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight consecutive hours:
  - a. Four grains of opium; or
  - b. One-half of a grain of morphine or of any of its salts; or
  - c. Two grains of codeine or of any of its salts; or
  - d. One-fourth of a grain of heroin or of any of its salts; or
  - e. A quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated;

2. **Manufacturers and Wholesalers.** Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of section 19-0314;
3. **Apothecaries.** Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of section 19-0314;
4. **Vendors of Exempted Preparations.** Every person who purchases for resale, or who sells narcotic drug preparations exempted by section 19-0312 of this chapter, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of section 19-0314.

**19-0314. Form and Preservation of Records.** The form of records shall be prescribed by the department. The record of narcotic drugs received in every case shall show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from the process of manufacture, and the date of such production or removal from the process of manufacture; and the record in every case shall show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

**19-0315. Labels.** Labels shall be affixed to all packages or receptacles containing narcotic drugs sold or dispensed under the provisions of this chapter as follows:

1. Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person except an apothecary for the purpose of filling a prescription under this chapter, shall alter, deface, or remove any label so affixed;
2. Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, or veterinarian,



he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, or the name, address, and registry number, of the apothecary for whom he is lawfully acting; the name and address of the patient or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

**19-0316. Authorized Possession of Narcotic Drugs by Individuals.**

A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of this chapter, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

**19-0317. Persons and Corporations Exempted.** The provisions of this chapter restricting the possessing and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, nor to any employee of the same acting within the scope of his employment; nor to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs; nor to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

**19-0318. Common Nuisances.** Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts or users of marihuana for the purpose of using narcotic drugs or marihuana or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance.

**19-0319. Penalty for Maintaining Common Nuisance.** Any person who maintains a common nuisance as defined in section 19-0318 shall be punished for the first offense by a fine of not less than two hundred dollars nor more than one thousand dollars, and by imprisonment in the county jail for not less than ninety days nor more than one year, and for the second and every successive offense, by imprisonment in the penitentiary for not more than two years nor less than one year.

**19-0320. Narcotic Drugs to be Delivered to State Official.** All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

1. Except as in this section otherwise provided, the court or

magistrate having jurisdiction shall order, after no further use thereof, as evidence in any prosecution is required, such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them;

2. Upon written application by the department, or any officer or agent thereof, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said department, for distribution or destruction, as hereinafter provided;
3. Upon application by any hospital within this state, not operated for private gain, the director of the department, in his discretion, may deliver any narcotic drugs that have come into his custody by authority of this section to the applicant, for medicinal use. Such director, from time to time, may deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics, or may destroy the same;
4. The department shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws.

**19-0321. Notice of Conviction to be Sent to Licensing Board.** On the conviction of any person of the violation of any provision of this chapter, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion is filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. On the conviction of any such person, the court, in its discretion, may suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officer may reinstate such license or registration.

**19-0322. Records Confidential.** Prescriptions, orders, and records required by this chapter, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States



relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

**19-0323. Fraud or Deceit to Obtain Narcotic Drugs Prohibited.** No person shall obtain or attempt to obtain a narcotic drug, nor procure or attempt to procure the administration of a narcotic drug by:

1. Fraud, deceit, misrepresentation, or subterfuge; or
2. The forgery or alteration of a prescription or of any written order; or
3. The concealment of a material fact; or
4. The use of a false name or the giving of a false address.

**19-0324. Acts Which Are Specifically Prohibited.** No person shall:

1. Willfully make a false statement in any prescription, order, report, or record, required by this chapter;
2. Falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other person authorized to possess narcotic drugs, for the purpose of obtaining a narcotic drug;
3. Make or utter any false or forged prescription or false or forged written order provided for in this chapter; or
4. Affix any false or forged label to a package or receptacle containing narcotic drugs.

The provisions of this section are not exclusive and the violation of any other provision of this chapter shall be punishable as hereinafter provided. The provisions of this section shall apply to all transactions relating to narcotic drugs which are exempted preparations in the same way as they apply to transactions under all other sections.

**19-0325. Exceptions and Exemptions Not Required to Be Negated.** In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negative any exception, excuse, proviso, or exemption contained in this chapter, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

**19-0326. Privilege.** Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication. No person shall be excused from testifying in a prosecution against another person under any provision of this chapter on the ground that his testimony might tend to incriminate him. However, the testimony given by such person in no case shall be used against him.

**19-0327. Enforcement and Cooperation.** It is hereby made the duty of the department, its officers, agents, inspectors, and representatives, and of all peace officers within the state, and of all state's attorneys to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic drugs.

**19-0328. Sale or Possession of Marihuana Prohibited; Penalty.** No person shall grow, sell, trade, furnish, or give away, or have in his possession, any marihuana. Any person who shall violate any provision of this section shall be punished by a fine of not more than two thousand dollars, or by imprisonment in the penitentiary for not more than five years, or by both such fine and imprisonment.

**19-0329. Duties of Sheriff to Destroy Marihuana Found Growing on Public Land.** The sheriff of every county shall destroy all marihuana found growing on public highways or lands under the jurisdiction and control of the state or county. He shall keep a record of all marihuana destroyed and report to the state's attorney of the county the description of the premises where it was found and the amount destroyed.

**19-0330. Sale or Possession of Peyote and Mescal Prohibited; Penalty.** No person shall sell, furnish, give away, or offer to sell, furnish, or give away, or have in his possession peyote, also known as pellote, which is botanically known as *Lophophora Williamsii* or *Agave Americana*, and which is commonly known as the mescal button, or any compound, derivative, or preparation thereof. Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

**19-0331. Penalties.** Any person violating any provision of this chapter, if another penalty is not specifically prescribed, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the penitentiary for not less than one year nor more than three years, or in the county jail for not more than one year, or by both such fine and imprisonment.

**19-0332. Effect of Acquittal or Conviction Under Federal Narcotic Laws.** No person shall be prosecuted for a violation of any provision of this chapter if such person has been acquitted or convicted under the federal narcotic laws of the same act or omission which, it is alleged, constitutes a violation of the provisions of this chapter.



**S. B. No. 57**

AN ACT DEFINING Isonipecaïne and Making it Subject to Chapter 19-03 of the North Dakota Revised Code of 1943; and Declaring an Emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. DEFINITION.) "Isonipecaïne" Means the substance identified chemically as 1-Methyl-4-Phenyl-Piperidine-4-Carboxylic Acid Ethyl Ester, or any Salt thereof by whatever trade name identified.

SECTION 2. Isonipecaïne is subject to all of the Rules and Regulations contained in Chapter 19-03 of the North Dakota Revised Code of 1943.

SECTION 3. EMERGENCY.) This act is hereby declared to be an Emergency Measure and shall be in full force and effect from and after its passage and approval.

Approved March 2, 1945.

**S. B. No. 58**

AN ACT To Amend and Re-enact Subsections 13, 16 and 17 of Section 19-0301 of the North Dakota Revised Code of 1943; and Declaring an Emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) That Subsection 13 of Section 19-0301 of the North Dakota Revised Code of 1943 is hereby Amended and Re-enacted to read as follows:

19-0301 (13). "Narcotic Drugs" means Coca Leaves, Opium, Isonipecaïne, Cannabis, and every other substance neither Chemically nor Physically Distinguishable from them;

SECTION 2. AMENDMENT.) That Subsection 16 of Section 19-0301 of the North Dakota Revised Code of 1943 is hereby Amended and Re-enacted to read as follows:

19-0301 (16). "Dispense" includes Distribute, Leave With, Give Away, Dispose Of, or Deliver;

SECTION 3. AMENDMENT.) That Subsection 17 of Section 19-0301 of the North Dakota Revised Code of 1943 is hereby Amended and Re-enacted to read as follows:

19-0301 (17). "Registry Number" means the number assigned to each person Registered Under the Federal Narcotic Laws;

SECTION 4. EMERGENCY.) This Act is hereby Declared to be An Emergency Measure and shall be in Full Force and Effect From And After Its Passage And Approval.

Approved February 28, 1945.

## POISONS AND DELETERIOUS PREPARATIONS

### 19-0401. Selling Certain Enumerated Poisons: Regulated; Penalty.

Every person who, at retail, without receiving a physician's prescription specifying that such prescription shall contain a poison and giving the name thereof, sells, furnishes, gives away, or delivers to another:

1. Arsenic or any preparation thereof, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, or any other poison or vegetable alkaloid, or the salts thereof, or essential oil of bitter almonds; or
2. Aconite, belladonna, colchicum, conium, formaldehyde, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis, or the pharmaceutical preparations of any of them, croton oil, chloroform, sulphate of zinc, mineral acids, carbolic acid, or oxalic acid,

without affixing to the bottle, box, vessel, or package containing the same, the name of the contents, the word "poison," and his name and place of business, is guilty of a misdemeanor. Any storekeeper, however, may sell in original unbroken packages, fungicides and insecticides, including formaldehyde and Paris green, generally used for agricultural purposes which have been designated as such by the state board of pharmacy.

**19-0402. Chloral Hydrate Not to Be Sold Without Prescription.** No person shall sell chloral hydrate, or any preparation containing chloral hydrate, at retail except upon the original written order or prescription of a recognized and reputable practitioner of medicine duly licensed to practice in this state, which order or prescription shall be dated and shall contain the name of the person for whom prescribed and shall be signed by the person giving the order or prescription. Such prescription shall not be refilled except upon the written order of the physician giving the original prescription.

**19-0403. Record to Be Kept of Poisons Dispensed; Examination of Record; Penalty.** Every person who, at retail, sells, furnishes, gives away, or delivers to another any of the articles or preparations mentioned in section 19-0401 or any drug, chemical, or preparation which, according to the standard works on medicine or materia medica, is liable, in quantities of sixty grains or less, to destroy adult human life, and who:

1. Fails or neglects, before delivering the same, to enter or cause to be entered in a book kept for that purpose, the date of sale, the name and address of the person to whom the article or preparation is delivered or sold, the name, quantity, and quality of the article or preparation delivered or sold, and the name of the dispenser; or
2. Fails, neglects, or refuses, during business hours, to exhibit such book, and every part thereof, for inspection, and to permit the

same to be inspected, upon demand, by any physician, coroner, sheriff, constable, or magistrate of the county, is guilty of a misdemeanor.

**19-0404. Distribution of Certain Drugs and Preparations Prohibited.** No person, for the purpose of advertising or inviting or suggesting the use of any such article, shall leave, throw, or deposit upon the doorstep or premises of another, or within the dwelling, barn, or other building owned or occupied by another, without a special personal request, samples or any quantities of any of the following preparations:

1. Patent or proprietary medicines; or
2. Any preparation, pill, tablet, powder, capsule, cosmetic, disinfectant, antiseptic, drug, medicine, or condiment that contains poison or any ingredient that is deleterious to health, or that contains an ingredient the name of which has to be printed upon the label or to be disclosed otherwise under any law of this state or of the United States.

**19-0405. Definitions of Terms Drug and Medicine as Used in Preceding Section.** The terms "drug," "medicine," "patent or proprietary medicine," "pill," "tablet," "powder," "capsule," "cosmetic," "disinfectant," "antiseptic," or "condiment" as used in section 19-0404 shall include all remedies for internal, external, or technical use, either in package or bulk, simple, mixed, or compound.

**19-0406. Preparations a Nuisance; May Be Destroyed.** The samples of goods described in section 19-0404 shall be deemed a nuisance and a danger and menace to the safety of children, members of the household, or livestock. If such samples are not removed upon notice by a member of the household, or if they are left behind purposely and not removed within twenty-four hours without notice, such samples may be removed, destroyed, or annihilated and disposed of by any member of the household and no accounting will have to be rendered, and an action demanding such accounting shall not be maintained in any court. A defense for a violation of section 19-0404 shall not be sustained unless a receipt or a request for the goods, dated and signed by the householder, is produced as evidence.

**19-0407. Penalty.** Any person who shall violate any provision of this chapter shall be punished, for each separate offense or violation, by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than thirty days, or by both such fine and imprisonment.



## OLEOMARGARINE

**19-0501. Oleomargarine: Definitions; Included Extracts, Mixtures, and Compounds.** The term "oleomargarine" as used in this chapter shall mean and include:

1. All substances commonly known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, or neutral;
2. All mixtures or compounds of any of the substances mentioned in subsection 1 of this section;
3. All lard extracts and tallow extracts;
4. All mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish oil, fish fat, vegetable oil, intestinal fat, and offal fat, and annatto or any other coloring matter,

if such manufactured substances, extracts, mixtures, or compounds, whether the same are mixed with butter or not, are:

1. Made in imitation or semblance of butter; or
2. Calculated or intended to be sold as butter or for butter; or
3. Churned, emulsified, or mixed in cream, milk, water, or other liquid, and contain moisture in excess of one percent.

**19-0502. Substances Not Included Within the Definition of Oleomargarine.** The definition of "oleomargarine" as used in this chapter shall not apply to the following:

1. Puff pastry shortening not churned or emulsified in milk or cream, and having a melting point of 118° Fahrenheit or more;
2. Salad dressing, mayonnaise dressing, or mayonnaise products containing condiments and spices;
3. Pharmaceutical preparations.

**19-0503. Labeling Oleomargarine, Butterine, and Imitation Butter.** No person shall sell or expose for sale, manufacture, or make oleomargarine or any other substance made in imitation or semblance of pure butter, unless the tubs, firkins, or other original packages are distinctly, legibly, and durably branded or marked by letters not less than one inch in length and one-half inch in width in a conspicuous place with the words "oleomargarine" or "imitation butter." Retail packages containing oleomargarine or any other substance made in imitation or semblance of pure butter shall be plainly and conspicuously labeled with the words "oleomargarine" or "imitation butter," as the case may be.

**19-0504. Sale in Knowledge of Violation to Be Imputed to Vendor; When.** The sale or offer for sale of oleomargarine or any other imitation butter in packages not branded, stamped, marked, or labeled as required in this chapter shall be prima facie evidence of knowledge of the character of such substance on the part of the person or his employer selling or offering the same for sale.

**19-0505. License Required to Sell Oleomargarine.** No person shall sell, exchange, or offer for sale, or have in his possession with intent to sell, offer for sale, or for exchange, any oleomargarine without first having obtained a license therefor from the department.

**19-0506. License: To Whom Granted; Duration; Contents.** The license provided for in section 19-0505 shall be granted only to a person owning or operating a place within this state from or in which oleomargarine is to be manufactured or sold. Each license shall be numbered and shall show the residence and place of business of the licensee. It shall be issued for a two year period beginning July first of the year in which it is issued and ending June thirtieth of the second year following the issuance thereof unless it is revoked prior to such date. The license shall not be transferable. Each license shall cover but one place of business. The department may revoke the license of any person violating any of the provisions of this chapter. Such department shall notify the state treasurer in writing immediately of any such revocation.

**19-0507. License Fee.** The fees for licenses issued under the provision of this chapter shall be as follows:

1. For a manufacturer, ten dollars;
2. For a wholesaler or distributor, five dollars; and
3. For a retail dealer, two dollars.

No such license shall be issued until after the required fee has been paid. At the close of each calendar month, the department shall transmit to the state treasurer all moneys received for such licenses. The state treasurer shall credit such moneys to the general fund of the state.

**19-0508. Tax on Oleomargarine; Containers for Sale; Tax Stamps to Be Affixed.** The state treasurer shall collect a tax of ten cents per pound upon all oleomargarine sold to consumers in this state. Oleomargarine shall not be sold in this state in packages containing less than one pound nor more than thirty pounds. Whenever a box, carton, or other container of oleomargarine is received by a retailer, he shall attach to each package a stamp denoting the payment of the tax upon the oleomargarine therein contained. Such stamps shall be canceled in the manner required by the department. If a manufacturer, wholesaler, or distributor sells to other than a retail dealer, such manufacturer, wholesaler, or distributor shall attach and cancel the required stamps on such sales.

**19-0509. Auditor to Supply Stamps; Delivery to Treasurer; Tax Deposited in General Fund.** The state auditor shall prepare suitable stamps denoting the payment of the tax for use on each kind of package described in this chapter. Upon requisition from the state treasurer, the state auditor shall deliver to his order the stamps designated in the requisition and shall charge the state treasurer with the stamps thus delivered. The auditor shall keep an accurate record of all stamps coming into and leaving his hands. The moneys received from the sale of the stamps shall be turned into the general fund of the state.

**19-0510. Treasurer to Redeem Stamps: Unlawful for Dealer to Sell or Dispose of Stamps.** The state treasurer, upon request, shall redeem and make repayment for unused stamps. No dealer shall sell or dispose of any stamps received by him under the provisions of this chapter to another dealer or to any other person. If a person owns or operates more than one place of sale, stamps may be distributed to the various

places of sale by the main office, but each such place of sale shall have a separate license and cancellation stamp.

**19-0511. Open Stock to Be Kept in Form Required by Department: Records of Vendors.** Every manufacturer, wholesaler, or retail dealer in oleomargarine shall keep all surplus and open stock in such form as may be prescribed by the department. A manufacturer or wholesaler shall keep a record of all sales of oleomargarine and a retail dealer shall keep a record of all purchasers thereof. Such records shall include invoices of bills for all purchases of oleomargarine and at all times during business hours shall be subject to inspection by the department or its agents.

**19-0512. Notice Required When Oleomargarine Is Used Where Meals Are Served.** The keeper or proprietor of any hotel, boarding house, restaurant, lunch counter, or other place where meals are served, who uses or serves for his guests as a substitute for butter any oleomargarine as defined in this chapter, shall print plainly and conspicuously on the bill of fare, if there is one, the words "oleomargarine used here." He also shall post conspicuously in different parts of each room where meals are served, and in places where they can be easily seen and read, signs bearing the words "oleomargarine used here" in letters at least one inch high and at least one-half inch wide.

**19-0513. Unlawful for Consumer to Use Oleomargarine Not Stamped.** No person shall use or consume within this state any oleomargarine unless the same has been taken from a package or container having attached thereto the stamp or stamps required under this chapter to denote the payment of the tax thereon.

**19-0514. Enforcement; Duty of Law Enforcement Officers.** Every officer who has the duty of enforcing the laws of this state shall be charged with the enforcement of the provisions of this chapter, and for failure to enforce the same, shall be subject to removal from office.

**19-0515. Forging or Counterfeiting Stamps; Punishment.** Any person who, with intent to defraud the state, makes, alters, forges, or counterfeits any license or stamp provided for in this chapter, or who has in his possession any forged, counterfeited, spurious, or altered license or stamp, knowing the same to be forged, counterfeited, spurious, or altered, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the penitentiary for not more than three years, or by both such fine and imprisonment.

**19-0516. Penalty.** Unless it is otherwise provided in this chapter, any person violating any of the provisions of this chapter is guilty of a misdemeanor, and for the first offense shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. For the second and each subsequent offense, he shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment.



## IMITATION ICE CREAM

**19-0601. Definitions.** In this chapter unless the context or subject matter otherwise requires:

1. "Imitation ice cream" is any frozen substance, mixture, or compound which is not ice cream, milk sherbet, ice, or frozen or frosted malted milk as the same are defined by the department, regardless of the name under which it is sold or offered for sale:
  - a. If the freezing of such substance, mixture, or compound is accompanied by agitation of the ingredients thereof;
  - b. If such substance, mixture, or compound is made in imitation or semblance of ice cream;
  - c. If such substance, mixture, or compound is prepared or frozen in the same manner as ice cream is customarily prepared or frozen; or
  - d. If such substance, mixture, or compound contains less than twelve percent of milk fat or weighs less than four and one-half pounds, avoirdupois, per gallon;
2. "Retail dealer" is any person, firm, or corporation operating a store, stand, or other place where imitation ice cream is sold to consumers;
3. "Peddler" is any person selling or vending imitation ice cream directly to the consumer at any place other than at a store, stand, or other fixed place of business.

**19-0602. Unlawful to Sell Imitation Ice Cream Without License.** No person shall manufacture, sell, exchange, offer for sale, or have in his possession with intent to sell or offer for sale or for exchange in this state, any imitation ice cream without first having obtained a license therefor from the department.

**19-0603. Application for License.** Any person making application for a license to manufacture, sell, or peddle imitation ice cream shall make the same upon a form prescribed by the department, and shall show the name of the county in which the applicant seeks to do business and the location of his place of business if he is a manufacturer or retailer. The application shall be accompanied by the complete formula of the article sought to be manufactured, sold, or peddled. The department shall refuse to grant the license if in its opinion the imitation ice cream described in such formula is unfit for human consumption.

**19-0604. Licenses; Term; Revocation.** A license for the manufacture, retailing, or peddling of imitation ice cream shall be issued by the department for a period of one year beginning on the first day of January of the year of issue and terminating on the thirty-first day of December following the date of issuance thereof. Each license shall cover but one manufacturer, retail dealer, or peddler, and shall be good only in the county for which it was issued. If issued to a manufacturer or retail dealer, it shall cover but one place of business, and if issued to a peddler, it shall cover but one county. A license issued under this chapter shall

not be transferable, and the department may revoke any such license for a violation of any provision of this chapter.

**19-0605. License Fees.** The fees for licenses to manufacture, sell, or peddle imitation ice cream shall be as follows:

1. Manufacturer, one hundred dollars;
2. Retail dealer, fifty dollars;
3. Peddler, ten dollars.

No license shall be issued until the applicant has paid the required fee.

**19-0606. Person Selling Imitation Ice Cream to Give Notice to Purchasers.** Any person selling imitation ice cream, to consumers shall display a sign so placed or carried as to be easily read by purchasers bearing the words "imitation ice cream" in letters at least two inches in height and one inch in width.

**19-0607. Enforcement; Duty of Law Enforcement Officer.** Every officer who has the duty of enforcing the laws of this state shall be charged with the enforcement of the provisions of this chapter, and for failure to enforce the same, he shall be subject to removal from office.

**19-0608. Penalty.** Any person violating any provision of this chapter is guilty of a misdemeanor, and for a first offense shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and for the second and each subsequent offense, he shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than ninety days, or by both such fine and imprisonment.

## EGGS

**19-0701. Definitions.** In this chapter unless the context or subject matter otherwise requires:

1. "Eggs unfit for human food" are eggs which consist in whole or in part of a filthy, decomposed, or putrid substance;
2. "Eggs" when used without further description or qualification shall include only fresh, sweet eggs;
3. "Candling" is the careful examination in a partially dark room or place of the whole egg by means of a strong light, the apparatus and method employed to be such as is approved by the department.

**19-0702. License to Engage in Business of Trading in Eggs; How Obtained; Fee.** Every person engaged in the business of trading in or buying eggs, except retail buyers candling eggs for licensed dealers and selling in lots not greater than one case, shall obtain from the department a license to conduct such business. A person who wishes to obtain such license shall make application therefor to the department in such manner as is prescribed by it. The license shall be issued by the department upon the receipt of the application and a fee of two dollars for an original license or one dollar for an annual renewal of the license.

All licenses shall be issued for one year, beginning on April first of each year and expiring on the thirty-first day of March following.

**19-0703. Unlawful Sale and Use as Food of Eggs Unfit for Human Food.** It shall be unlawful for any person: "

1. To sell, offer, or expose for sale, or to traffic in eggs which are unfit for human food;
2. To use eggs that are unfit for human food in the preparation or manufacture of food for public consumption; or
3. To deliver, sell, purchase, or accept eggs unfit for human food in or at any establishment where food products are prepared or manufactured.

**19-0704. Unlawful to Sell as Fresh Eggs Held in Cold Storage or Preserved.** No person shall advertise for sale, offer for sale, or sell as fresh eggs, any eggs which have been held in cold storage for thirty days or more, or which have been pickled in brine, water glass, or lime-water, or which have been preserved in any manner whatsoever.

**19-0705. Sale of Eggs Held in Cold Storage or Preserved; Regulations.** If eggs that have been held in cold storage for a period of thirty days or longer are offered for sale or sold, there shall be placed in or on the receptacle containing the eggs, in full view of the public, a card not smaller than six inches in width and six inches in length upon which shall be printed the words "cold storage" in plain Gothic letters not less than one inch in length. If eggs that have been preserved by pickling in brine, water glass, limewater, or in any manner, are offered or exposed for sale or sold, there shall be placed in or on the receptacle containing the eggs, in full view of the public, a card not smaller than six inches in width and six inches in length upon which are printed the words "preserved eggs" in plain Gothic letters not less than one inch in length.

**19-0706. Dockage Allowed on Eggs.** No person, in buying or selling eggs, shall take or give a greater or lesser dockage for eggs unfit for food than the actual dockage thereon as determined by the careful candling of the eggs so purchased or sold.

**19-0707. Candling; Maintaining Adequate Place For; Candling Certificate.** Every person engaged in the business of buying eggs in this state for resale or consignment shall maintain an adequate place for the accurate candling of eggs and a suitable place for the proper handling of eggs which are intended to be used for human food. There shall be placed on the top layer under the top flat of every case of candled eggs a candling certificate. Such certificate shall be printed on cards or sheets of paper at least two and three-eighths inches by four and one-fourth inches and shall give the date of candling the eggs contained in the case, the name, initial, or number of the person candling the eggs, and the name, address, and license number of the person candling the eggs or for whom the eggs were candled. The certificate shall be in the following form:



The eggs in this case were candled

.....  
(Date)

By .....

(Signature of person candling the eggs)

Of .....

(Individual, firm, or corporation)

License No. .... N. D.

**19-0708. Candling Record; Statement to Seller.** Every person buying eggs in this state for resale or consignment from a dealer in eggs shall keep on file for a period of sixty days an accurate candling record of every lot, shipment, or consignment of eggs received. Within ten days after the receipt of the lot, shipment, or consignment, he shall render an accurate and detailed return statement to the person delivering, shipping, or consigning the eggs. The return statement shall truthfully and accurately classify and grade the eggs received by the buyer according to generally accepted commercial standards. All candling records and return statement and all other records relating to any sale, purchase, or shipment of eggs shall be open for examination at all reasonable times by the agents of the department.

**19-0709. Contents of Return Statement of First Buyer.** The return statement of the first buyer of eggs from the producer shall specify:

1. The total number of eggs received; and
2. The number of eggs rejected by the process of candling as unfit for resale as food.

**19-0710. Contents of Return Statement of Subsequent Buyers.** The return statement of subsequent buyers of eggs shall include the following information for the benefit of the shipper, seller, or consumer:

1. The total number of eggs received;
2. The number of eggs graded No. 1;
3. The number of eggs graded as "seconds";
4. The number of cracked eggs;
5. The number of mashed or leaking eggs;
6. The number of rotten eggs or "rots" which shall include all eggs which are unfit for human food; and
7. The storage of eggs in the lot, shipment, or consignment.

**19-0711. Penalty.** A person violating any of the provisions of this chapter is guilty of a misdemeanor, and for the first offense shall be punished by a fine of not more than fifty dollars. For each subsequent offense, he shall be punished by a fine of not more than one hundred dollars and, in addition, the court may authorize the department to withhold, suspend, or revoke his license, either permanently or for a limited time as specified in the judgment. Any person who engages in the business of trading in or buying eggs while his license is withheld, suspended, or revoked shall be punished by a fine of not more than one hundred dollars for each offense, and by the permanent revocation or withholding of a license to buy or trade in eggs.

## BEVERAGES

**19-0801. Certain Beverages Unlawful to Sell.** No person shall sell, offer, or expose for sale, or have in his possession with intent to sell within this state, any beverage of whatever nature that contains any ingredient that is injurious to health, or is adulterated, misbranded or insufficiently or improperly labeled within the meaning of chapter 2 of this title, or that is not licensed as provided in this chapter.

**19-0802. Beverage; Definition.** The term "beverage" as used in this chapter shall include intoxicating liquors, carbonated and noncarbonated soda water, ginger ale, root beer, aromatic flavors, cereal or malt beverages, apple cider, tomato juice, grape juice and other fruit juices, imitations or compounds of any of these, concentrated extracts and essences from which beverages are made, and mineral or spring water sold under private label.

**19-0803. Requirements for Labeling; Standards of Purity and Quality.** The requirements for labeling and standards of purity and quality of all beverages included in this chapter shall be the same as those required under chapter 2 of this title, together with such other standards, rules, and regulations as the department may establish to carry out the intent of this chapter. Such standards, rules, and regulations shall have the force and effect of law.

**19-0804. License Required.** Before any beverage can be sold, exposed for sale, or held with intent to sell, within this state, the manufacturer, importer, jobber, or other retailer shall furnish a suitable sample of each and every product to the department for inspection and chemical analysis. If, after examination, the beverage is found to comply with all requirements of law, it shall be licensed and then may be sold within this state. If the beverage does not meet all requirements of law, the department shall refuse to license it and shall prevent its sale. A sample of each beverage shall be furnished annually to the department and the license fee shall be paid annually during the month of December or prior to placing the beverage on the market. The license shall expire December thirty-first next following its issuance. If the manufacturer or jobber secures a license for a product, subsequent sellers, including retailers and dispensers, need not again secure a license for the same product, and no dispenser shall be required to secure a license for a product prepared for his own use from a product already licensed.

**19-0805. License Fees.** The license fees for beverages licensed for sale by the department shall be as follows:

- |  |          |
|--|----------|
| 1. Soda water, ginger ale, root beer, and pop, for each brand or class .....       | \$ 10.00 |
| 2. Concentrated extracts, essences, nectars, cordials, syrups:                     |          |
| a. Single product .....  | 10.00    |
| b. Brand or class .....  | 50.00    |
| 3. True fruit juices, apple cider, grape juice, tomato juice, for each brand ..... | 20.00    |

4. Imitation or compound fruit juices, apple cider, grape juice, for each brand .....	20.00
5. Mineral and spring water, for each brand.....	20.00
6. Cereal beverages and malts, for each brand.....	50.00
7. Wines, for each brand .....	25.00
8. Whiskey, rum, brandy, liquors, liqueurs, and other distilled liquors:	
a. First brand .....	150.00
b. Each additional brand .....	50.00

**19-0806. Penalties.** Any person violating any of the provisions of this chapter or any rule or regulation issued pursuant thereto is guilty of a misdemeanor and, if another penalty is not prescribed, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars.

**19-0807. Penalty for Sale, Use, or Purchase of Bottles When Brand Recorded.** Every person who without the written consent of the owner, sells, disposes of, purchases, or traffics in, any bottle bearing a name, brand, trade-mark, or label which has been recorded as provided in section 11-1801, and every person who, without the written consent of the owner, refills any such bottle with any beverage, whether genuine or not, or keeps such bottle with intent to refill, use, or sell the same, is punishable for the first offense by a fine of fifty cents for each bottle so filled, sold, bought, disposed of, or trafficked in, and for each subsequent offense, by a fine of five dollars for each bottle so filled, bought, disposed of, or trafficked in.

## COSMETICS

**19-0901. "Cosmetic" Defined.** As used in this chapter, the term "cosmetic" shall mean all substances and preparations intended for cleansing or altering the appearance or promoting the attractiveness of the person, except that such term shall include soaps only when medicinal or curative qualities are claimed therefor.

**19-0902. Adulteration of Cosmetic; What Constitutes.** A cosmetic shall be deemed to be adulterated if it:

1. Bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual;
2. Consists, in whole or in part, of any filthy, putrid, or decomposed substance;
3. Has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health; or
4. Is packed in a container composed, in whole or in part, of any poisonous or deleterious substance which may render it injurious to health.



**19-0903. Misbranding of Cosmetic; What Constitutes.** A cosmetic shall be deemed to be misbranded if:

1. Its labeling is false or misleading in any particular;
2. It is in package form, unless it bears a label containing the name and place of business of the manufacturer, packer, seller, or distributor, and an accurate statement of the quantity of the contents of the package in terms of weight, measure, or numerical count; or
3. Any word, statement, or other information required on the label under any provision of this chapter is not prominently placed thereon in such a manner as to be easily seen and in such terms as to be readily understood by the purchasers and users of such articles under customary conditions of purchase and use, due consideration being given to the size of the package.

**19-0904. Unlawful to Sell Certain Cosmetics.** No person shall manufacture, sell, offer, or expose for sale or delivery, or have in his possession for sale or delivery, any cosmetic which is adulterated or misbranded or which otherwise violates any provision of this chapter or any rule or regulation issued pursuant thereto.

**19-0905. False and Misleading Advertising Prohibited.** No person shall disseminate any advertisement which contains any statement, design, or device regarding any cosmetic, or regarding the ingredients thereof or the substances therein, or regarding the curative, therapeutic, preventive, or beneficial effects thereof, or the dosage, frequency, or duration of use pertaining thereto, which is false or misleading in any particular.

**19-0906. Rules, Regulations, and Standards.** The department shall adopt, publish, and enforce rules and regulations for the enforcement of this chapter, and it may fix the limit of tolerance for any poisonous or deleterious substance which may be present in a cosmetic.

**19-0907. Penalty.** Any person violating or failing to comply with any of the provisions of this chapter, or with any rule, regulation, definition, or standard issued pursuant thereto, is guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment.

## ENRICHED FLOUR AND BREAD LAW

An Act to require the enrichment of flour and bread to meet certain standards of vitamin and mineral content; and to fix penalties for violation of this Act.

SECTION 1. When used in this Act, unless the context otherwise requires: (a) "Flour" includes and shall be limited to the foods commonly known in the milling and baking industries as (1) white flour, also known as wheat flour or plain flour; (2) bromated flour; (3) self-rising flour, also known as self-rising white flour or self-rising wheat flour, and (4) phosphated flour, also known as phosphated white flour or phosphated wheat flour, but excludes whole wheat flour and also excludes special flours not used for bread, rolls, bun or biscuit baking, such as specialty cake, pancake and pastry flours.

(b) "White bread" means any bread made with flour (as defined in (a)) whether baked in a pan or on a hearth or screen, which is commonly known or usually represented and sold as white bread, including Vienna bread, French bread, and Italian bread.

(c). "Rolls" includes plain white rolls and buns of the semi-bread dough type namely: soft rolls, such as hamburger rolls, hot dog rolls, Parker House rolls, and hard rolls, such as Vienna rolls, Kaiser rolls, but shall not include yeast-raised sweet rolls or sweet buns made from fillings or coatings, such as cinnamon rolls or buns and butterfly rolls.

(d). "Commissioner" means the State Food Commissioner and Chemist of the State of North Dakota.

(e). "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, or any group of persons whether incorporated or not, engaged in the commercial manufacture or sale of flour, white bread or rolls.

SECTION 2. It shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale, for human consumption in this State, flour (as defined in Section 1) unless the following vitamins and minerals are contained in each pound of such flour; not less than 2.0 mg. and not more than 2.5 mg. of thiamine; not less than 1.2 mg. and not more than 1.5 mg. of riboflavin; not less than 16.0 mg. and not more than 20.0 mg. of niacin or niacin-amide; not less than 13.0 mg. and not more than 16.5 mg. of iron (Fe); except in the case of self-rising flour which in addition to the above ingredients shall contain not less than 500 mg. and not more than 1500 mg. of calcium (Ca); provided, however, that the terms of this section shall not apply to flour sold to distributors, bakers or other processors, if the purchaser furnishes to the seller a certificate in such form as the Commissioner shall by regulation prescribe, certifying that such flour, will be (1) resold to a distributor, baker or other processor, or (2) used in the manufacture, mixing or compounding of flour, white bread or rolls enriched to meet the requirements of this Act or (3) used in the manufacture of products other than flour, white

bread or rolls. It shall be unlawful for any such purchaser so furnishing any such certificate to use or resell the flour so purchased in any manner other than as prescribed in this section.

SECTION 3. It shall be unlawful for any person to manufacture, bake, sell, or offer for sale, for human consumption in this state, any white bread or rolls (as defined in Section 1) unless the following vitamins and minerals are contained in each pound of such bread or rolls; not less than 1.1 mg. and not more than 1.8 mg. of thiamine; not less than 0.7 mg. and not more than 1.6 mg. of riboflavin; not less than 10.0 mg. and not more than 15.0 mg. of niacin; not less than 8.0 mg. and not more than 12.5 mg. of iron (Fe).

SECTION 4. (a) The Commissioner is hereby charged with the duty of enforcing the provisions of this Act and he is hereby authorized and directed to make, amend or rescind rules, regulations and orders for the efficient enforcement of this Act.

(b) Whenever the vitamin and mineral requirements set forth in Sections 2 and 3 of this Act are no longer in conformity with the legally established standards governing the interstate shipment of enriched flour and enriched white bread or enriched rolls, the Commissioner in order to maintain uniformity between intrastate and interstate vitamin and mineral requirements for the foods within the provisions of this Act, is authorized and directed to modify or revise such requirements to conform with amended standards governing interstate shipments.

(c) In the event of findings by the Commissioner that there is an existing or imminent shortage of any ingredient required by Sections 2 or 3 of this Act, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this Act, the Commissioner shall issue an order, to be effective immediately upon issuance, permitting the omission of such ingredient from flour or white bread or rolls; and if he finds it necessary or appropriate, excepting such foods from labeling requirements until the further order of the Commissioner. Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. In the absence of any such order of the.....appropriate federal agency or factual information supplied by it, the Commissioner on his own motion may, and upon receiving the sworn statements of ten (10) or more persons subject to this Act that they believe such a shortage exists or is imminent shall, within twenty (20) days thereafter hold a public hearing with respect thereto at which any interested person may present evidence; and shall make findings based upon the evidence presented. The Commissioner shall publish notice of any such hearings at least ten (10) days prior thereto. Whenever the Commissioner has reason to believe that such shortage no longer exists, he shall hold a public hearing, after at least ten (10) days notice shall have been given, at which any interested person may present evidence, and he shall make findings based upon the evidence so presented. If his findings be that



such shortage no longer exists, he shall issue an order to become effective not less than thirty (30) days after publication thereof, revoking such previous order; provided, however, that undisposed floor stocks of flour on hand at the effective date, of such revocation order, or flour manufactured prior to such effective date, for sale in this state may thereafter be lawfully sold or disposed of.

(d) All orders, rules and regulations adopted by the Commissioner pursuant to this Act shall be published in the manner hereinafter prescribed, and, within the limits specified by this Act, shall become effective upon such date as the Commissioner shall fix.

(e) Whenever under this Act publication of any notice, order, rule or regulation is required, such publication shall be made at least.....  
.....(twice) in at least one daily newspaper of general circulation printed and published in this state.

(f) For the purpose of this Act, the Commissioner, or such officers or employees under his supervision as he may designate, is authorized to take samples for analysis and to conduct examinations and investigations, and to enter, at reasonable times, any factory, mill, bakery, warehouse, shop or establishment where flour, white bread or rolls are manufactured, processed, packed, sold or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread or rolls therein, and all pertinent equipment, materials, containers and labeling.

SECTION 5. Any person who violates any of the provisions of this Act or the orders, rules or regulations promulgated by the Commissioner under authority thereof, shall upon conviction thereof be subjected to fine for each and every offense, in a sum not exceeding \$100.00 or to imprisonment, not to exceed 30 days.

SECTION 6. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.  
Approved March 2, 1945.

## RULES AND REGULATIONS

The following rules and regulations, definitions and standards of purity, quality and strength, have been fixed, adopted and published in conformity with Section 19-0202 of the North Dakota Revised Code of 1943 and are in force and effect. These rules and regulations, definitions and standards were fixed, adopted, published and have been in effect since July 1, 1923 with the exception of some revisions and additions as of January 1, 1934, of March 7, 1942, and of July 1, 1945.

A product not labeled in accordance with the requirements of these rules and regulations shall be deemed to be misbranded. A product containing any added prohibited substance, or containing any substance in excess of the amount permissible, or any product not conforming to the

definition or standards of purity, quality or strength hereinafter designated, shall be deemed to be adulterated.

**Regulation 1. SAMPLES.)**

(a) Articles of food or drugs coming within the scope of this law may be sampled wherever found.

(b) Samples for examination shall be collected by authorized agents of the State Food Commissioner and Chemist.

(c) Samples may be purchased in the open market, and, if in bulk, the mark, brands or tags upon the package, carton, container, wrapper or accompanying printed or written matter shall be noted. The collector shall also note the names of the vendor and agent through whom the sale was actually made, together with the date of invoice and the date of purchase by the inspector.

**Regulation 2. ANALYSES.)**

(a) Samples shall be examined by any method applicable to determine their freedom from adulteration or misbranding. Such methods may include chemical analysis, bacteriological or physical examination.

**Regulation 3. PUBLICATION OF COURT ACTION.)**

(a) After judgment of the court in any proceeding under the law, notice may be given by publication. Such notice shall include the findings of the courts of record and may include the findings of the analyst and such explanatory statements of facts as the State Food Commissioner and Chemist may deem appropriate. If an appeal be taken from the judgment of the court before such publication, that fact shall appear.

**Regulation 4. STANDARDS FOR DRUGS.)**

(a) A drug sold under or by a name or synonym, recognized by an official compendium, or by a name simulating either of these, shall conform to the standard of strength, quality or purity for the article as determined by the test laid down in the official compendium official at the time of sale of such drug. An article shall not be deemed to conform to such standard of strength, quality or purity unless it conforms in every respect to all the requirements and specifications of the official compendium for the article.

**Regulation 5. COLORS.)**

(a) Only harmless colors shall be permitted in food products and shall include vegetable colors, manufactured vegetable dyes, cochineal and such coal tar colors as have been certified by the Secretary of the United States Department of Agriculture as suitable for use in food products.

(b) Colors, even though harmless, shall be prohibited in food products when used (1st) to conceal inferiority or damage, (2nd) to make the product appear better than it really is, (3rd) to imitate a natural product or any product of recognized style, type or quality when not labeled "imitation."

**Regulation 6. CHEMICALS.)**

(a) The following preservatives, bleaching agents and chemicals shall be deemed harmless and permitted to be used in such food products, and in such amounts, as those hereinafter specified.

(b) Benzoate of Soda shall be permitted in a quantity not to exceed 1/10 of 1% in such goods as is necessary to retard spoilage while such products are in commerce. The use of Benzoate of Soda for this purpose will be permitted in natural fruit juices, fruit butters and prepared fruit and vegetable products.

(c) Sulphur Dioxide shall be permitted in necessary products, in quantities not to exceed 350 milligrams per liter or kilogram with an allowance not over 20 percent of this amount in the free state; provided that in cherries or raisins used for decorative effects or in limited amounts in fancy cakes, sulfur dioxide shall be permitted in quantities not to exceed 1,000 milligrams per kilogram.

(d) No objection will be raised by this Department to the use of any harmless agent for the purpose of bleaching flour.

(e) The use of aluminum compounds will be permitted in baking powders.

(f) The addition of any of the following substances to food products is specifically prohibited: Saccharin or other similar synthetic chemical sweetening agent, formaldehyde, crude pyroligneous acid, copper salts, talc, shellac and boron compounds.

(g) A food product prepared with the use of a permissible preservative, bleaching agent or other substance shall be plainly and conspicuously labeled to show the presence of any such added substance in a form substantially as follows:

(1) Preserved with Benzoate of Soda.

(2) Bleached.

(3) Prepared with (or contains) alum, (or Aluminum compound).

(h) No substance permitted in Regulation 6 shall be used in the preparation of any article of food in a manner whereby damage or inferiority is concealed or the product made to appear better than it really is.

#### Regulation 7. LABEL.)

(a) The term "label," as used in the act, includes any legend, descriptive matter or design appearing upon the article or its container, or any circular, pamphlet and the like, which are packed and go with the article to the purchaser, and such letters, circulars and pamphlets to which reference is made either on the label attached to the package or on the package itself.

(b) A label in a foreign language shall conform to these regulations and shall bear all the information required by the law in English, as well as in each of the foreign languages used to describe the article of food or drugs.

(c) The label shall be free from any statement, design or device regarding the article or the ingredients or substances contained therein, or quality thereof, or place of origin, which is false or misleading in any particular. The terms "design" and "device" include abbreviations, characters, signs and pictorial matter of any description.

(d) A food or drug product shall not be labeled or branded in such a manner as to deceive or mislead the purchaser. Direct misstatements



and indirect misrepresentations regarding the article or its ingredients by means of designs, printed testimonials, devices, or artifices in the arrangement, style or dress of the package, or in the arrangement of the printed or pictorial matter in or upon the label or package are prohibited.

(e) An article of food not an imitation, containing more than one food product or active medicinal agent is misbranded if named after a single constituent. In the case of drugs the nomenclature employed by the official United States Pharmacopoeia or official National Formulary or the official Homeopathic Pharmacopoeia shall obtain.

(f) The statement of the formula is not required on the label except in so far as may be necessary to prevent adulteration or misbranding.

(g) An article of food or drug which under the law or regulations requires special labeling must carry such label, not only on the original package, but on all lots for display of the goods or for the convenience of handling.

(h) Bulk goods or other products not required to be labeled shall not be exhibited or offered for sale in such manner as to mislead the purchaser. Deceptive or misleading oral statements regarding the nature or quality of such goods are prohibited.

(i) Articles of food taken from the original package and susceptible to misrepresentation, when sold in bulk or put up in other packages or containers by the dealer, shall be labeled as delivered to the purchaser to show the source or kind of product contained therein.

(j) Retail cartons or other outside containers shall be labeled according to the same regulations as are applied to the bottle, can or other receptacle contained therein.

(k) Adulteration cannot be corrected by any form of labeling.

(l) If more than one form of labeling is used, statements must be uniform. For example, the use of bottles with the name of another concern blown in the glass is prohibited.

(m) A product shall be deemed to be misbranded if its label bears any statement which is a false or misleading representation with respect to another drug or device or a food or a cosmetic.

#### Regulation 8. CHARACTER OF NAME.)

(a) A simple or unmixed food or drug product shall be sold by its common name in the English language; or, if a drug, recognized in the United States Pharmacopoeia or National Formulary by the English name or names therein designated.

(b) A geographical name indicating that a food or drug product was manufactured or produced in a specific place shall not be used unless such product was manufactured or produced in that place.

(c) A name which is distinctive of a product of a foreign country shall not be used upon an article not manufactured or produced in that country, except as an indication of the type or style of quality or manufacture, and then only when the product possesses substantially the characteristic qualities of the product of that foreign country. Such

name shall be so qualified as to remove any impression that the article was manufactured or produced in the country in which the name is distinctive.

(d) The character of any adopted or fanciful name appearing on the label as the manufacturer or distributor of the article shall not give a false indication of the character or quality of the product.

#### Regulation 9. DEFINITIONS OF TERMS USED.)

(a) The terms "mixture" and "compound" are interchangeable.

(b) A "blend" is a compound resulting from a mixture of two or more similar substances.

(c) "Imitation" products shall include products made to simulate or imitate another product. The term "imitation" shall also be applied to products made in part from a natural product and an ingredient or assembly of ingredients possessing at least some of the characteristic qualities of the natural product. If any of the essential characteristic qualities of the finished product are derived from the added imitation ingredients, the product shall be deemed an "imitation" even though there is present a substantial amount of the natural product.

(d) "Compound" products shall include products made from a combination of a natural product with an added ingredient or assembly of ingredients in which the natural ingredient predominates in all of the essential characteristic qualities of the finished product.

(e) A "distinctive name" is a name that distinguishes one kind of a food from another.

(f) The term "own distinctive name" as used herein means a name which is purely arbitrary or fanciful and distinguishes a particular article of food from all other articles of food.

#### Regulation 10. COMPOUNDS, IMITATIONS, DISTINCTIVE NAMES.)

(a) A compound for which no standard of purity or quality has been established, and all imitations, shall be labeled with the word "compound" or "imitation" as the case may be, immediately joining the name of the product and equally conspicuous with it.

(b) In the case of "compounds" or "imitations" the general rule shall apply that when the character of the product is such that fraud or deception may be practiced they shall be labeled to show the name and percentage of each ingredient.

(c) The use of "distinctive" or "own distinctive" names shall not remove the article from the operation of the law or any label requirement thereunder.

1. A product sold under its "own distinctive name" and made in imitation of another article shall be labeled "imitation."

2. Such names as "Smith's Root Beer," "Brown Apple Cider," shall not be regarded as "own distinctive names."

3. The name or any device indicative of a natural product shall not be used in a "distinctive name" or "own distinctive name" unless the product is made wholly from the natural product indicated, or unless it bears the word "imitation" or "compound" as the case may be.

4. A compound with an "own distinctive name" shall not be an imitation of another article, whether simple, mixed or compound, or offered for sale under the name of another article.

5. The "own distinctive name" shall not give a false indication of origin, character, composition, ingredients or place of manufacture, and shall not lead the purchaser to suppose that the product is other than what it is.

#### Regulation 11. SUBSTITUTION.)

(a) When a substance of recognized quality commonly used in the preparation of a food product is replaced in whole or in part by another substance not injurious or deleterious to health, the name of the substitute shall appear upon the label.

(b) Foods, drugs and beverages shall be deemed as coming under the provisions of the act when held, prepared, displayed or sold in any public place. Such public places shall include cafes, restaurants, bakeries, factories and outdoor festivals, fairs and booths. Failure to furnish quality or quantity of a food or beverage indicated on menus or in accordance with claims made by the seller, on verbal or written request of the buyer, shall be in violation of the act.

#### Regulation 12. BY-PRODUCTS OR WASTE FOOD MATERIAL.)

(a) A food which consists in whole or in part of sound by-products or waste food material, such as pieces, stems, trimmings and the like, shall not be labeled with the unqualified name of the substance from which such material is derived, but must show the true nature of the product.

#### Regulation 13. METHOD OF STATING QUANTITY OR PROPORTION.)

(a) The quantity of alcohol in a food or drug shall be stated in terms of the average percentage by volume of absolute alcohol in the finished product. The term "alcohol" without qualification means ethyl alcohol. If any alcohol other than ethyl alcohol is present the kind must be stated on the label.

(b) An unqualified statement of percentage of a substance, derivative, or preparation other than alcohol shall express the percentage by weight; except that the percentage or proportion may be expressed in some other manner, but in such case must be so qualified as to show definitely the manner of expression. (e.g. "percentage by volume") The statement used must be in terms which are easily understood by the average purchaser.

(c) When two or more pills, wafers, tablets, powders, capsules or the like are put up for sale or distribution in the same container, there shall be stated on the container the quantity present in each pill, wafer, tablet, powder, capsule or other unit, of any substance required by law to be declared.

#### Regulation 14. STATEMENT OF WEIGHT, MEASURE OR COUNT.)

(a) Except as otherwise provided by law or this regulation, a package of food or drugs shall be plainly and conspicuously marked



with the quantity of the contents in terms of weight, measure or numerical count on the outside of the container, or on the covering of the package usually delivered to the consumer.

(b) The quantity of the contents so marked shall be the quantity of food or drug in the package.

(c) The statement of the quantity of the contents shall be plain and conspicuous, shall not be a part of or obscured by any legend or design, and shall be so placed, and in such characters, as to be readily seen and clearly legible when the size of the package and the circumstances under which it is ordinarily examined by purchaser or consumers are taken into consideration.

(d) The quantity of the contents when stated by weight or measure shall be marked in terms of the largest unit contained in the package except that articles may be marked in terms of larger units provided that no fraction with a denominator greater than eight be used.

(e) Statement of weight shall be in terms of the avoirdupois pound and ounce; statement of liquid measure shall be in terms of the United States Gallon of 231 cubic inches and its customary sub-divisions, i. e., gallons, quarts, pints or fluid ounces and shall express the volume of the liquid at 68 degrees F. (20 degrees C.); statement of dry measure shall be in terms of the United States standard bushel of 2,150.42 cubic inches and its customary sub-divisions, i. e., bushels, pecks, quarts, or pints, or, in the case of articles in barrels, in terms of the United States Standard barrel and its lawful sub-divisions, i. e., third, half, or three-quarters barrel, as fixed by the act of Congress, March 4, 1915, (38 Stat. 1186); Provided, that statement of quality may in addition be in terms of metric weight or measure. Statement of metric weight shall be in terms of kilograms or grams. Statement of metric measure shall be in terms of liters or cubic centimeters.

(f) The quantity of solids shall be stated in terms of weight and the quantity of liquids in terms of measure. The quantity of viscous or semi-solid foods or of mixtures of solids and liquids may be stated either by weight or measure, but the statement shall be definite and shall indicate whether the quantity is expressed in terms of weight or measure, as for example, "weight 12 oz." or "12 oz. avoirdupois," "volume 12 o.z," "12 fluid ounces."

(g) The quantity of the contents shall be stated in terms of weight or measure unless the package is marked by numerical count and such numerical count gives accurate information as to the quantity of the food or drug in the package.

(h) The quantity of the contents may be stated in terms of minimum weight, minimum measure, or minimum count, for example, "minimum weight 10 oz.," "minimum volume 1 gallon," or "not less than 4 fl. oz.," but in such case the statement must approximate the actual quantity and there shall be no tolerance below the stated minimum.

(i) The following tolerances and variations from the quantity of the contents marked on the package shall be allowed:

(1) Discrepancies due exclusively to errors in weighing, measuring or counting which occur in packing conducted in compliance with good commercial practice.

(2) Discrepancies due exclusively to difference in the capacity of bottles and similar containers, resulting solely from unavoidable difficulties in manufacturing such bottles or containers so as to be of uniform capacity; Provided, however, that no greater tolerance shall be allowed in case of bottles or similar containers which, because of their design, can not be made of approximately uniform capacity than is allowed in case of bottles or similar containers which can be manufactured so as to be of approximately uniform capacity.

(3) Discrepancies in weight or measure due exclusively to differences in atmospheric conditions in various places and which unavoidably result from the ordinary and customary exposure of the packages to evaporation or to the absorption of water.

Discrepancies under classes (1) and (2) of this paragraph shall be as often above as below the marked quantity. The reasonableness of discrepancies under class (3) of this paragraph will be determined on the facts in each case.

(j) A package containing one-half avoirdupois ounce of food or less is "small" and shall be exempt from marking in terms of weight.

(k) A package containing one fluid ounce of food or less is "small" and shall be exempt from marking in terms of measure.

(l) When a package is not required by paragraph (g) to be marked in terms of either weight or measure and the units of food therein are six or less, it shall, for the purpose of this regulation, be deemed "small" and shall be exempt from marking in terms of numerical count.

#### Regulation 15. SLACK FILLED AND DECEPTIVE CONTAINERS.)

(a) All packages must be properly filled in accord with good commercial practice. A tolerance of not to exceed twenty percent (20%) will be permitted when necessary. The reasonableness of the fill will be determined on the facts regarding each class of product.

(b) Bottles and similar containers of two to four ounces capacity whose ratio of apparent displacement volume to capacity is 1.5 or less are normal, while those whose ratios exceed 1.8 are definitely deceptive to the purchaser and their use prohibited.

(c) Collapsible tubes whose ratio of apparent displacement volume of tube to actual capacity of carton is 2.4 or less are normal, while those whose ratios exceed 2.4 are definitely deceptive to the purchaser and their use prohibited. ("Apparent displacement volume" as used in calculating ratio means volume or weight of water displaced when the filled bottle or tube is submerged in water plus the volume or weight of water necessary to fill any side and/or bottom panels.

"Capacity" as used in calculating ratio means volume or weight of water the bottle holds when filled level with top.

"Actual Capacity of Carton" as used in determining ratio means actual volume of carton as calculated from inside dimensions.)

## Regulation 16. FLAVORING EXTRACTS.)

(a) As applied to food flavoring principles the term "extract" is applicable only to alcoholic or hydro-alcoholic solutions of the flavoring substances. The term "flavor" may be applied to food flavoring principles in which a vehicle other than alcohol is used. A product labeled with the word "flavor" shall contain the same kinds and proportions of active flavoring ingredients as are required under the definitions and standards for extracts, and must further be labeled to show the vehicle used in lieu of alcohol.

(b) Extracts or flavors recognized in an official compendium must be of the strength, quality and purity indicated by the official compendium.

(c) Extracts and flavors which contain harmless artificial or synthetic compounds made to resemble the flavor of natural fruit products shall be labeled with the word "imitation."

(d) Fanciful trade names or coined names applied to imitation extracts or flavors must not simulate the names of genuine products or convey to the purchaser a false indication of quality.

(e) The terms "double," "triple," etc., when applied to extracts and flavors are held to mean respectively two and three times the minimum standards.

(f) The term "concentrated" as applied to extracts and flavors is misleading unless accompanied by an explanatory statement as to the degree of concentration in terms of the standard product.

(g) All flavoring extracts or flavors for which a definition and standard has been set, whether sold under its own name or designated by a coined name and intended to be used in lieu of a defined extract or flavor, shall be of the strength and quality indicated in the definition.

## Regulation 17. BEVERAGES, CONCENTRATES, FOUNTAIN SYRUPS.)

### (a) Fruit Beverages:

Such terms as "apple juice," "grape juice," "loganberry juice," "cherry juice," etc. are applicable only to pure juices of the fruit specified. A fruit juice modified in any way or to which sugar, water, or other substances have been added shall be plainly labeled so as to indicate such modification or addition, as for example, "grape juice with added sugar," "apple juice reduced one-fourth with water."

Fruit juice base beverages (Ades, Drinks, Rickeys, etc.) must contain appreciable amounts of fruit juice as follows: Lime and lemon, not less than 6% juice; grape, orange, grapefruit, and pineapple, not less than 8% juice; and non-alcoholic fruit nectars, including pear, nectarine, peach, apricot, plum, and all other similar beverages, a minimum of 40% macerated fruit. The list of ingredients must be plainly declared on the label in the order of predominance, including water (plain or carbonated), sugar, fruit, oils, acid, artificial color, etc.

Beverages made from certain products derived from fruits, even though such products occur naturally in fruits, shall not be confused with or interpreted as true fruit juice base beverages. A product made



from oil of lemon citric acid, and color, with or without an emulsifying agent, shall not be deemed lemonade or a natural fruit juice base product even though its essential ingredients are derived from the lemon.

**(b) Imitation fruit beverages:**

Any beverage which by its appearance, labeling, advertising claims, etc. is represented to the purchaser as a fruit juice base beverage must contain sufficient fruit juice to meet the requirement for fruit juice base beverage under (a) or it must be free from pulp, emulsifying agents, or artificial cloud. The essential ingredients shall be plainly declared on the label. In addition, any such beverage made in imitation of a fruit juice or other fruit product and bearing a name indicative or suggestive of a particular kind of fruit which contains less than the fruit juice required for fruit juice base beverages under (a) must be labeled "imitation." The word "imitation" shall be equally conspicuous with the name of the product.

Soda, soda water, pop, etc., not made in imitation of a fruit juice or other natural fruit product, and in which only the color and flavor, or both, of a particular fruit is imitated may, in lieu of being labeled "imitation," be labeled "pop," "soda," "soda water," etc., "artificial color and flavor."

**(c) Compound fruit beverages:**

A beverage bearing a name indicative of a particular fruit juice or other natural fruit product and consisting of the natural fruit juice combined with a solution of fruit acid, harmless color and flavor, with or without sugar, shall be considered a "compound" if the principal characteristic qualities of the finished product are derived from the added natural fruit juice. The names of the essential ingredients shall be plainly declared on the label. The word "compound" need not appear in the name but the product must meet the juice requirements for fruit juice base beverages or it will be classified as an imitation and must be so labeled.

**(d) Phosphates:**

A product labeled or sold as a phosphate beverage shall contain an appreciable amount of phosphoric acid or acid phosphate, with or without any other added harmless acid material commonly used in the preparation of beverages.

**(e) Concentrates:**

Fruit syrups, fountain syrups, or concentrates bearing the name of or a name suggestive of a specific kind of fruit shall be made wholly from the juice or unmanipulated edible portion of the natural product indicated by the name, with or without the addition of sugar. Fruit syrups, fountain syrups, nectars, concentrates, etc., flavored with an essential oil or a synthetic fruit essence, with or without artificial coloring matter shall be labeled "(name of fruit) flavored beverage base" or "imitation (name of fruit) flavored beverage base" as the case may be, depending on whether or not the predominating characteristic quali-

ties of the finished product are derived from the true fruit juice or the added imitation ingredient or ingredients. A list of the principal or essential ingredients must be plainly declared on the label in the order of their predominance.

Those liquid concentrates, nectars, etc., which are intended primarily to be made into beverages by the consumer by dilution with water, with or without the addition of sugar, must contain fruit acid equivalent to not less than 8 ounces citric acid per gallon. Closely related products, such as powdered preparations, to be dissolved in water, with or without the addition of sugar, shall contain sufficient fruit acid so that the finished beverage shall contain fruit acid equivalent to not less than 0.05 ounces citric acid per quart when prepared according to directions. Provided, however, that concentrates, nectars, etc. which contain sufficient fruit juice so that the finished beverages, when prepared according to directions, contain sufficient fruit juice to meet the requirements for fruit juice base beverages (a) need not comply with the requirements for acidity. An article to which sugar is customarily added by the purchaser before a beverage is made shall bear the statement "use with sugar" or some other similar statement immediately beneath the name of the article. The label shall bear a statement of the names of the principal or essential ingredients composing the product, plainly stated in the order of their predominance and printed in uniform size of type.

Concentrates, nectars, etc. which are intended for use in preparations of finished beverages, syrups, or other products to be offered for sale in the state shall be labeled with all the information which is necessary to enable the bottler or other manufacturer to label his finished products in compliance with the requirements of this regulation. Concentrates of this nature must be of such composition that a legal beverage can be prepared from them. For example, an orange drink concentrate which does not contain sufficient orange juice so that the finished drink contains at least 8% juice must be free from pulp, emulsifying agent, or artificial cloud.

**(f) Beverages dispensed at public gatherings:**

All mixed drinks, whether carbonated or uncarbonated, which are sold, offered for sale, or displayed for sale at fairs, carnivals, circuses, and similar places of public gathering, and at all open refreshment booths or stands, shall be dispensed in or from the original containers as filled and sealed at the bottling plant, or from closed dispensers, or from containers fitted with suitable faucet, spigot, or pump. The use of open bowls is prohibited.

Dispensers and storage containers used for storing and dispensing carbonated or still beverages shall be either glass, stoneware, or other acid-resistant construction. They shall be thoroughly washed and then sterilized with a chlorine solution of not less than 100 parts per million in contact for not less than five minutes or by some other method approved by the State Food Commissioner and Chemist, at least once daily.

The addition of ice directly to beverages stored in dispensers or other closed containers is prohibited.

A conspicuous sign shall be attached to, or placed by, a dispenser or container and shall plainly declare the name of the beverage. If the beverage be an imitation or a compound, it must be licensed under the Beverage Inspection Act and the sign must state the list of ingredients, including artificial flavor and color if used.

**(g) Non-alcoholic cordials, wines, etc.:**

Beverages which conform to cordials, wines, creme de menthe, etc., in all respects except as to alcohol content may be labeled "non-alcoholic cordial," "non-alcoholic wine," "non-alcoholic creme de menthe," etc. as the case may be.

**(h) Malted beverages:**

All packages containing "Beer," "Ale," "Stout," "Porter," or other malt beverages shall be labeled with a statement of alcohol content. If the alcohol claim is a specific percentage, the variation in actual alcohol content from that claimed shall not exceed 0.3%. If a maximum alcohol content is claimed, as "not more than --% alcohol by volume," the actual alcohol content shall not exceed the maximum and shall not be more than 0.5% less than the stated maximum.

Use on the labels of the words "Strong," "Full Strength," "Extra Strength," "High Test," "High Proof," "Full Old Time Alcohol Strength," or similar words or statements likely to be considered as statements of alcoholic content is prohibited.

**Regulation 18. JELLIES, JAMS, PRESERVES, MARMALADES, FRUIT BUTTERS.)**

(a) Only such products as conform to the official definitions and standards for preserves, jellies, fruit butters, jams, and marmalades, shall be entitled, without further qualification, to be designated as such.

(b) Jellies, jams, preserves, marmalades, and fruit butters prepared from more than one fruit shall not be designated by the name of any one fruit but shall bear on the label the name of all the fruits in the preparation in the order of their predominance, if any, of the weights of such fruits in the combination.

(c) Products prepared as substitutes for, or in imitation of, pure fruit preserves, jellies, jams, marmalades and fruit butters shall be labeled with the word "imitation" equally conspicuous with and immediately adjoining the name of the imitated product, followed without any intervening descriptive matter by a list of the ingredients contained therein.

(d) A preserve, jelly, jam, marmalade or fruit butter which contains any added thickener, gelatinizing agent, fruit acid, pectin, color or other ingredients, shall bear on the label a statement of the name of each added ingredient.

(e) Where dried or evaporated fruit or trimming stock is substituted in whole or in part for the whole, clean, sound, properly matured



fresh fruit or the pulpy or fleshy portions thereof in the preparation of any preserves, jelly, jam, etc., the name or names of the ingredients used shall be stated on the label.

(f) A jelly, jam, preserve, marmalade or fruit butter which is prepared with other than common sugar (sucrose) shall bear on the label the name of such substitute.

#### Regulation 19. SYRUPS, MIXED SYRUPS.)

(a) The term "syrup," as applied to table syrup, pancake syrup, or any food syrup consisting of one syrup ingredient, shall be plainly qualified by the common name of syrup. The qualifying name shall be printed on the label with equal prominence to that of the term "syrup."

(b) A syrup consisting of a mixture of two or more edible syrups shall be labeled with the names of all the ingredients; and if any ingredient be present in such small quantity that the naming of the ingredient without further qualifying the statement be misleading, the proportion must also be indicated. (e. g. A mixture of cane sugar and maple syrup containing more than about 25% maple syrup could be labeled with the unqualified statement "cane sugar and maple syrup." A mixture containing from 10% to 25% maple syrup should be labeled "cane sugar and maple syrup" qualified by the prominent statement "contains —% maple syrup." If the percentage of maple syrup is less than about 10% the product should be labeled with some such legend as "sugar syrup with a trace of maple syrup added.")

(c) A syrup consisting of a defined product or products together with added flavoring or coloring ingredients, shall be labeled to indicate that it is a "compound" or "imitation" as the case may be.

#### Regulation 20. POWDERED SUGAR.)

Powdered sugar may be mixed with starch not to exceed three percent (3%) by weight, and also provided the package in which it is sold shall be plainly labeled stating the percentage of starch therein contained.

#### Regulation 21. MIXED FLOURS.)

(a) A product consisting of a mixture of flours obtained from different cereals as wheat, buckwheat, etc., shall not be named after a single constituent but shall be labeled to show the percentage of each ingredient used in the mixture.

(b) The term "self-rising" as applied to flour or to mixtures of flours, implies the presence of leavening ingredients, and products sold as self-rising flour shall bear upon the label the names of the flour ingredients and leavening agents contained in the mixture, and the percentage of each.

#### Regulation 22. BAKING POWDER.)

Baking powder shall be labeled to indicate its type by designating the acid reacting contents.

### Regulation 23. BAKERY PRODUCTS.)

(a) Color in Cakes. Cakes of all varieties shall be free from added yellow color, either of coal tar or vegetable origin. The use of yellow coloring in cake is not permitted even when declared. There is no objection to the use in cakes of other colors such as red, blue, green, etc., when used solely for decorative effect or for special occasions.

(b) Ice Cream Cones shall be free from added yellow color either of coal tar or vegetable origin and shall also be free from saccharin or other artificial sweeteners.

(c) Jelly Roll, Jelly Doughnuts, etc. When jelly is used in combination with cake, as in jelly roll, jelly doughnuts, etc., the jelly shall be pure fruit jelly, free from artificial color or flavor.

(d) Imitation Fruit Jelly in Bakery Products. When imitation fruit jelly, or jellies other than pure fruit jellies are used in so-called jelly rolls, jelly doughnuts, etc., the package shall be labeled accordingly. In the case of bakery products sold at retail, cards giving this information shall be displayed in a conspicuous place in direct connection with each product sold.

(e) The use of artificial butter flavors is prohibited.

### Regulation 24. PIE FILLING.)

When the name of a fruit or any product recognized as a filler for pie is used in the name of a product to be used as a pie filling, without qualification, the product must be made in accordance with the name of the fruit or other products indicated in the name; for example, a lemon pie filling is a product made with lemon oil or rind, lemon juice, sugar, and either whole eggs or yolks of eggs. Pie fillers made largely from starch together with a gelatinizing substance, sugar, color, lemon oil and citric acid, are misbranded when sold as lemon pie filler. Such products shall be labeled so as to fully advise the customer of the composition of the product with the name of the ingredients.

### Regulation 25. SALAD OIL.)

A salad oil consisting of a compound or mixture of two or more edible oils or fats shall be labeled to show the name of the ingredients.

### Regulation 26. LARD COMPOUNDS, LARD SUBSTITUTES.)

(a) A mixture or compound consisting of lard blended with other animal fat, oleo stearin, or vegetable fats or oils, or products prepared from any of these, shall be labeled to show the composition with the name of the ingredients and the percentage of each.

(b) A product prepared from or consisting of animal or vegetable oil or fat manufactured and sold for use in the preparation of food or in cooking or baking shall be plainly labeled with the common name of the oil or fat. A product consisting of a mixture of two or more edible oils or fats shall be labeled with the name of each ingredient together with the percentage of each.

Regulation 27. MILK, CREAM, SKIMMED MILK, BUTTERMILK.)

(a) Milk and all products derived therefrom, when sold at a restaurant, hotel, lunch counter, or any public eating place, whether served separately or in connection with other food or when served with a meal without additional charge, are sold as a part of the meal and shall be amenable to the provisions of the North Dakota Food and Drugs Act or to any rule or regulation or standard of quality, purity or strength issued thereunder.

Regulation 28. VINEGAR.)

(a) Packages containing vinegar shall bear a label stating the kind of vinegar contained therein.

(b) A vinegar made by alcoholic and subsequent acetous fermentations of the aqueous solutions prepared from apple by-products, skins, cores, and chops, shall be plainly labeled "apple by-product vinegar," "apple waste vinegar," or by other term correctly describing the material from which it is produced. The apple stock from which the vinegar is prepared must be clean and sound.

(c) Any bottle, jug, or other container in which vinegar is sold or delivered in bulk, to the customer, shall bear a label plainly stating the kind of vinegar contained therein.

Regulation 29. SAUSAGE.)

(a) Cereal, vegetable starch, or flour may be added to sausage in amounts not exceeding three and one-half (3½) per cent in all, individually or collectively, providing the product be so labeled as to clearly show the percentage of such added material.

(b) Water may be added to sausage in the course of preparation in the amount not exceeding three per cent (3%), except that sausage of the class which is smoked or cooked such as Frankfort style, Vienna style, and Bologna style, may contain added water in excess of three per cent (3%), but not in excess of ten per cent (10%) to make the product palatable.

(c) Sausage belonging to that class the various members of which are smoked or cooked before being placed on sale, such as Frankfort style, Vienna style, and Bologna style, may contain, in addition to water in excess of three per cent (3%), added cereal, starch or vegetable flour, providing that the product is so labeled as to show the presence of such added material.

(d) No artificial coloring matter shall be used in the preparation of sausage. Harmless colors may be used for coloring sausage casings by dipping or application, provided the character of the casing and the mode of treatment be such that the coloring does not penetrate into the meat food product contained in the casing, and the presence of such coloring matter be plainly declared upon the casing itself or upon the container. Coloring matter shall not be added to sausage casings for the purpose of simulating, or in lieu of, the treatment by smoke from burning wood.

(e) When sausage is sold in bulk, the required information to be



given on the label shall be given by means of a placard displayed in such manner as to clearly advise the customer of the nature of the product.

(f) The addition of sulphurous acid or sulphite to meat or meat products imparts a fictitious color to the product and may conceal damage and inferiority. Therefore, the use of sulphurous acid or any of its compounds in the preparation of meat products is prohibited.

(g) The sale of food products prepared with crude pyroligneous acid or liquid smoke, in lieu of natural wood smoke, is prohibited.

(h) The sale of meats by any establishment without proper and adequate refrigeration is prohibited.

#### Regulation 30. WASHING AND STERILIZING DISHES USED IN PUBLIC PLACES.)

All dishes, glasses and other containers or utensils used in serving foods or beverages must be thoroughly cleaned and sterilized before they are again used for such purpose.

Either of the two following methods of sterilizing is authorized:

1. Immerse the properly cleaned dishes, glasses and other containers or utensils for not less than two minutes in clean, hot water maintained at a temperature of at least 170 degrees Fahrenheit.

2. Immerse the properly cleaned dishes, glasses and other containers or utensils in a chlorine solution containing not less than 200 parts per million of available chlorine when first prepared, and not less than 50 parts per million of available chlorine at any time thereafter while the solution is used for this purpose.

After the dishes, glasses and other containers have been sterilized by one of the above two methods, they should be removed from the hot water or chlorine solution and allowed to drain. Hand drying with the use of towels is not recommended.

#### Regulation 31. SANITATION IN DRUG ESTABLISHMENTS.)

The provisions governing the sanitation of food (Section 19-0218 through 19-0224 North Dakota Revised Code of 1943) also govern the sanitation of drugs and drug establishments.

#### Regulation 32. TRANSPORTATION OF FOODS, DRUGS, AND COSMETICS.)

The transportation of fruits, vegetables, other foods, drugs and/or cosmetics in a vehicle previously used to transport livestock and/or other animals dead or alive, is strictly prohibited; provided, however, the transportation of foods, fruits, vegetables, drugs and/or cosmetics in a vehicle thoroughly cleaned, deodorized, and sterilized following each transportation of animals will be permitted.

The transportation of fruits, vegetables, other foods, drugs, and/or cosmetics, in a vehicle carrying livestock or any improperly slaughtered animal, is strictly prohibited.

### Regulation 33. SEWAGE DISPOSAL.)

All human excreta must be disposed of in sewers, properly constructed settling tanks, sanitary pit privies, or other approved devices.

Privies must not be installed in sewered areas.

Sanitary pit privies are permissible in unsewered areas provided the following requirements are fulfilled.

#### A. Location:

1. All pit privies should be located on a well drained site, at lower elevation than, and at a sufficient distance from, any well, spring, infiltration gallery, cistern, or other source of domestic water supply, to preclude the possibility of either underground or surface contamination from the privy reaching the water supply; provided that such distance shall not be less than 50 feet measured horizontally.

2. Pit privies shall be physically separated from any building and located not less than 40 feet from all kitchens, dining rooms and pantry openings.

#### B. Construction:

1. All privies must be constructed in accordance with plans and specifications approved by the State Laboratories Department and the State Department of Health.

2. Separate buildings should be provided for each sex.

3. Every privy for men must be equipped with a urinal.

All privies shall be kept in a clean, sanitary condition at all times.

The area surrounding the entrance of each privy should be properly illuminated at night.

To meet local conditions, additional requirements as to location and operation of the privy may be made by authorized state inspectors.

### Regulation 34. LABELING OF CANNED SALMON.)

Canned salmon shall be labeled to designate the species of salmon in the can with one of the common names listed below belonging to the species of fish canned:

1. *Oncorhynchus nerka*. Red or Red (blueback or sockeye).
2. *Oncorhynchus tshawytscha*. Chinook or Chinook (king or spring).
3. *Oncorhynchus kitsutch*. Coho or Coho (medium red or silver).
4. *Oncorhynchus gorbuscha*. Pink or humpback.
5. *Oncorhynchus keta*. Chum, keta or dog.

### Regulation 35. STANDARDS FOR FOOD.)

For those products for which there are no definitions of identity or standards of purity issued by the State Food Commissioner and Chemist of North Dakota, the State Laboratories Department will use such definitions and standards as issued by the United States Food and Drug Administration when such definitions and standards do not conflict with any North Dakota law.

## DEFINITIONS AND STANDARDS FOR FOOD PRODUCTS

These definitions are so framed as to exclude substances not mentioned in the definition and in each instance imply that the product is clean and sound.

### I. ANIMAL PRODUCTS

#### A. MEAT AND THE PRINCIPAL MEAT PRODUCTS

##### a. Meats

1. **FLESH** is any edible part of the striated muscle of an animal. The term "animal" as herein used, indicates a mammal, a fowl, a fish, a crustacean, a mollusk, or any other animal used as a source of food.

2. **MEAT**<sup>1</sup> is the properly dressed flesh derived from cattle, from swine, from sheep, or from goats sufficiently mature and in good health at the time of slaughter, but is restricted to that part of the striated muscle which is skeletal or that which is found in tongue, in the diaphragm, in the heart, or in the esophagus, and does not include that found in the lips, in the snout, or in the ears, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the flesh and which may not have been separated from it in the process of dressing it for sale.

3. **FRESH MEAT** is meat which has undergone no substantial change in character since the time of slaughter.

4. **BEEF** is meat derived from cattle nearly one year of age or older.

5. **VEAL** is meat derived from young cattle one year or less of age.

6. **MUTTON** is meat derived from sheep nearly one year of age or older.

7. **LAMB** is meat derived from young sheep one year or less of age.

8. **PORK** is meat derived from swine.

9. **VENISON** is flesh derived from deer.

##### b. Meat By-Products

**MEAT BY-PRODUCTS** are any properly dressed edible parts, other than meat, which have been derived from one or more carcasses of cattle, of swine, of sheep, or of goats sufficiently mature and in good health at the time of slaughter.

##### c. Prepared Meats

1. **PREPARED MEAT** is the product obtained by subjecting meat to process of comminuting, of drying, of curing, of smoking, of cooking, of seasoning, or of flavoring, or to any combination of such processes.

2. **CURED MEAT** is the product obtained by subjecting meat to a process of salting, by the employment of dry common salt or of brine, with or without the use of one or more of the following: Sodium nitrite, sodium nitrate, potassium nitrate, sugar, dextrose, a sirup, honey, spice.

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<sup>1</sup>The term "meat" when used in a qualified form, as, for example, "horse meat," "reindeer meat," "crab meat," etc., is then, and then only, properly applied to corresponding portions of animals other than cattle, swine, sheep and goats.



3. DRY SALT MEAT is the prepared meat, which has been cured by the application of dry common salt, with or without the use of one or more of the following: Sodium nitrite, sodium nitrate, potassium nitrate, sugar, dextrose, a sirup, honey, spice; with or without the injection into it of a solution of common salt to which may have been added one or more of the following: Sodium nitrite, sodium nitrate, potassium nitrate, sugar, dextrose, a sirup, honey.

4. CORNED MEAT is the prepared meat which has been cured by soaking in, with or without injecting into it, a solution of common salt, with or without one or more of the following, each in its proper proportion: Sodium nitrite, sodium nitrate, potassium nitrate, sugar, dextrose, a sirup, honey, and with or without the use of spice.

5. SWEET PICKLED MEAT is the prepared meat which has been cured by soaking in, with or without injecting into it, a solution of common salt, with sugar and/or dextrose, a sirup, and/or honey, together with one or more of the following, each in its proper proportion: Sodium nitrite, sodium nitrate, potassium nitrate, and with or without the use of spice.

6. DRIED MEAT is the product obtained by subjecting fresh meat or cured meat to a process of drying, with or without the aid of artificial heat, until a substantial portion of the water has been removed.

7. SMOKED MEAT is the product obtained by subjecting fresh meat, dried meat, or cured meat to the direct action of the smoke either of burning wood or of similar burning material.

8. CANNED MEAT is fresh meat or prepared meat, packed in hermetically sealed containers, with or without subsequent heating for the purpose of sterilization.

9. HAMBURGER, "Hamburger steak," is comminuted fresh beef with or without addition of suet and/or of seasoning and contains not over twenty (20%) percent fat. A normal ratio of moisture/protein should not be greater than 3.5. A ratio of 3.7 or more definitely indicates added water.

10. POTTED MEAT, deviled meat, is the product obtained by comminuting and cooking fresh meat and/or prepared meat, with or without spice, and is usually packed in hermetically sealed containers.

11. SAUSAGE MEAT is fresh meat or prepared meat, or a mixture of fresh meat and prepared meat, and is sometimes comminuted. The term "sausage meat" is sometimes applied to bulk sausage containing no meat by-products.

#### **d. Meat Food Products**

1. MEAT FOOD PRODUCTS are any articles of food or any articles that enter into the composition of food which are not prepared meats but which are derived or prepared, in whole or in part, by a process of manufacture from any portion of the carcasses of cattle, swine, sheep, or goats, if such manufactured portion be all, or a considerable and definite portion, of the article, except such preparations as are for medicinal purposes only.

2. **MEAT LOAF** is the product consisting of a mixture of comminuted meat with spice and/or with cereals, with or without milk and/or eggs, pressed into the form of a loaf and cooked.

3. **PORK SAUSAGE** is chopped or ground fresh pork, with or without one or more of the following: Herbs, spice, common salt, sugar, dextrose, a sirup, water.

4. **BRAWN** is the product made from chopped or ground and cooked edible parts of swine, chiefly from the head, feet, and/or legs, with or without the chopped or ground tongue.

5. **HEADCHEESE**, mock brawn, differs from brawn in that other meat and/or meat by-products are substituted, in whole or in part, for corresponding parts derived from swine.

6. **SOUSE** is the product consisting of meat and/or meat by-products; after cooking, the mixture is commonly packed into containers and covered with vinegar.

7. **SCRAPPLE** is the product consisting of meat and/or meat by-products mixed with meal or the flour of grain, and cooked with seasoning materials, after which it is poured into a mold.

#### **e. Lard**

1. **LARD** is the rendered fresh fat from hogs in good health at the time of slaughter, is free from rancidity, and contains, necessarily incorporated in the process of rendering, not more than 1 per cent of substances other than fatty acids and fat.

2. **LEAF LARD** is lard rendered at moderately high temperatures from the internal fat of the abdomen of the hog, excluding that adherent to the intestines, and has an iodine number not greater than 60.

3. **NEUTRAL LARD** is lard rendered at low temperatures.

#### **f. Canned Dog Food**

The terms "dog food," "dog and cat food," or any similar terms used in connection with any product packed in hermetically sealed containers mean a commercially sterile food product that is wholesome and nutritious for dogs. Said dog food is to be composed of edible fresh and/or frozen or cured meat and/or meat by-products and/or fish. It may contain cereals or other vitamin containing substances, and may contain such cereals, edible accessory food products, edible mineral or vitamin containing substances provided the presence of any or all of these is indicated on the label. It must comply with the following standards:

- (a) **Protein**—a minimum of 10% total protein, 75% of which must be of animal origin.
- (b) **Fat**—a minimum of 2%.
- (c) **Crude Fiber**—a maximum of 1%.
- (d) **Moisture**—a maximum of 75%.

(The label of all canned dog food must bear imprinted thereon in legible manner the guaranteed analysis—minimum percentage of crude protein and crude fat and maximum percentage of crude fiber—and the ingredients used in the manufacture in order of their preponderance as to weight. Statements such as "Fit for Human Food" which might be

construed as offering the product for human consumption are prohibited. Canned dog food shall be sold in cans holding one pound net weight or whole multiple of one pound and not any fractions thereof.)

## B. MILK AND MILK PRODUCTS

### a. Milks

1. MILK is the whole, fresh lacteal secretion obtained by the complete milking of one or more healthy cows, excluding that obtained within 15 days before and 5 days after calving, or such longer period as may be necessary to render the milk practically colostrum free. It contains not less than three and one-quarter per cent ( $3\frac{1}{4}\%$ ) of butter fat and not less than eight and one half per cent ( $8\frac{1}{2}\%$ ) of non-fat solids. The name "milk" unqualified means cow's milk.

2. PASTEURIZED MILK is milk every particle of which has been subjected to a temperature not lower than  $142^{\circ}\text{F.}$  for not less than 30 minutes and then promptly cooled to  $50^{\circ}\text{F.}$  or lower.

3. HOMOGENIZED MILK is milk that has been mechanically treated in such a manner as to alter its physical properties, with particular reference to the condition and appearance of the fat globules.

4. EVAPORATED MILK is the product resulting from the evaporation of a considerable portion of the water from milk, or from milk with adjustment, if necessary, of the ratio of fat to nonfat solids by the addition or by the abstraction of cream. It contains not less than 7.9 per cent of milk fat, nor less than 25.9 per cent of total milk solids.

5. SWEETENED CONDENSED MILK is the product resulting from the evaporation of a considerable portion of the water from milk to which sugar and/or dextrose has been added. It contains not less than 28 per cent of total milk solids, and not less than 8.5 per cent of milk fat.

6. DRIED MILK is the product resulting from the removal of water from milk, and contains not less than 26 per cent of milk fat and not more than 5 per cent of moisture.

7. MALTED MILK is the product made by combining whole milk with the liquid separated from a mash of ground barley malt and wheat flour, with or without the addition of sodium chloride, sodium bicarbonate, and potassium bicarbonate, in such a manner as to secure the full enzymic action of the malt extract, and by removing water. The resulting product contains not less than 7.5 per cent of butterfat and not more than 3.5 per cent of moisture.

8. GOAT'S MILK and ewe's milk are the whole, fresh lacteal secretions free from colostrum obtained by the complete milking of the healthy animals, and conform in name to the species of animal from which they are obtained.

### b. Skim Milks

9. SKIM MILK, SKIMMED MILK, is that portion of milk which remains after removal of the cream in whole or in part.

10. EVAPORATED SKIMMED MILK is the product resulting from the evaporation of a considerable portion of the water from skimmed milk, and contains not less than 20 per cent of milk solids.



11. SWEETENED CONDENSED SKIMMED MILK is the product resulting from the evaporation of a considerable portion of the water from skimmed milk to which sugar and/or dextrose has been added. It contains not less than 24 per cent of milk solids.

12. DRIED SKIMMED MILK is the product resulting from the removal of water from skimmed milk, and contains not more than 5 per cent of moisture.

13. BUTTERMILK is the product that remains when fat is removed from milk or cream, sweet or sour, in the process of churning. It contains not less than 8.5 per cent of milk solids not fat.

14. CULTURED BUTTERMILK is the product obtained by souring pasteurized skimmed or partially skimmed milk by means of a suitable culture of lactic bacteria. It contains not less than 8.5 per cent of milk solids not fat.

#### c. Cream

1. CREAM, SWEET CREAM, is that portion of milk, rich in milk fat, which rises to the surface of milk on standing or is separated from it by centrifugal force. It contains not less than 18 per cent of milk fat and not more than 0.2 per cent of acid-reacting substances, calculated in terms of lactic acid.

2. WHIPPING CREAM is cream which contains not less than 30 per cent of milk fat. Light Whipping Cream contains not less than 30 per cent but less than 36 per cent or more of milk fat. Heavy Whipping Cream contains 36 per cent or more of milk fat.

3. HOMOGENIZED CREAM is cream that has been mechanically treated in such a manner as to alter its physical properties, with particular reference to the condition and appearance of the fat globules.

#### d. Milk Fat or Butter Fat

1. MILK FAT, BUTTER FAT, is the fat of milk, and has a Reichert-Meissl number not less than twenty-four (24) and a specific gravity not less than

$$\begin{array}{r} (40^{\circ}\text{C.}) \\ 0.905 \end{array}$$

(40°C.)

#### e. Butter

1. BUTTER is the clean, sound product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, which also includes a small portion of the other natural milk constituents, with or without salt, and contains, all tolerances provided for, not less than eighty per cent (80.0%) of milk fat. Butter may also contain added coloring matter.

2. RENOVATED BUTTER, PROCESS BUTTER, is the clean, sound product made in semblance of butter from melted, clarified, or refined butterfat, without the addition or use of any substance other than water, milk, cream, or salt, and contains, all tolerances provided for, not less than eighty per cent (80.0%) of milk fat.

#### **f. Cheese**

1. CHEESE is the product made from curd obtained from the whole, partly skimmed, or skimmed milk of cows, or from the milk of other animals, with or without added cream, by coagulating the casein with rennet, lactic acid, or other suitable enzyme or acid, and with or without further treatment of the separated curd by heat or pressure, or by means of ripening ferments, special molds, or seasoning.

In the United States the name "cheese," unqualified, is understood to mean Cheddar cheese, American cheese, American Cheddar cheese.

2. WHOLE MILK CHEESE is cheese made from whole milk.

3. PARTLY SKIMMED MILK CHEESE is cheese made from partly skimmed milk.

4. SKIMMED-MILK CHEESE is cheese made from skimmed milk.

#### **Whole Milk Cheese**

5. CHEDDAR CHEESE, AMERICAN CHEDDAR CHEESE, is the cheese made by the Cheddar process from heated and pressed curd obtained by the action of rennet on whole milk. It contains not more than 39 per cent of water, and, in the water-free substance, not less than 50 per cent of milk fat.

6. WASHED CURD CHEESE, SOAKED CURD CHEESE, AMERICAN WASHED (OR SOAKED) CURD CHEESE, is cheese made from whole milk by the usual process for this type of cheese. It contains not more than 42 per cent of water, and, in the water-free substance, not less than 50 per cent milk fat.

7. COLBY CHEESE, AMERICAN COLBY CHEESE is the cheese prepared from whole milk by the usual process for this type of cheese. It contains not more than 40 per cent of water, and, in the water-free substance, not less than 50 per cent milk fat.

8. PINEAPPLE CHEESE is the cheese made by the pineapple Cheddar cheese process from pressed curd obtained by the action of rennet on whole milk. The curd is formed into a shape resembling a pineapple, with characteristic surface corrugations, and during the ripening period the cheese is thoroughly coated and rubbed with a suitable oil, with or without shellac. It contains, in the water-free substance, not less than 50 per cent of milk fat.

9. LIMBURGER CHEESE is the cheese made by the Limburger process from unpressed curd obtained by the action of rennet on whole milk. The curd is ripened in a damp atmosphere by special fermentation. It contains, in the water-free substance, not less than 50 per cent of milk fat.

10. BRICK CHEESE is the quick-ripened cheese made by the brick-cheese process from pressed curd obtained by the action of rennet on whole milk. It contains, in the water-free substance, not less than 50 per cent of milk fat.

11. STILTON CHEESE is the cheese made by the Stilton process from unpressed curd obtained by the action of rennet on whole milk, with or without added cream. During the ripening process a special

blue-green mold develops, and the cheese thus acquires a marbled or mottled appearance in section.

12. **GOUDA CHEESE** is the cheese made by the Gouda process from heated and pressed curd obtained by the action of rennet on whole milk. The rind is colored with saffron. It contains, in the water-free substance, not less than 45 per cent of milk fat.

13. **NEUFCHATEL CHEESE** is the cheese made by the Neufchatel process from unheated curd obtained by the combined action of lactic fermentation and rennet on whole milk. The curd, drained by gravity and light pressure, is kneaded or worked into a butterlike consistence and pressed into forms for immediate consumption or for ripening. It contains, in the water-free substance, not less than 50 per cent of milk fat.

14. **CREAM CHEESE** is the unripened cheese made by the Neufchatel process from whole milk enriched with cream. It contains, in the water-free substance, not less than 65 per cent of milk fat.

15. **ROQUEFORT CHEESE** is the cheese made by the Roquefort process from unheated unpressed curd obtained by the action of rennet on the whole milk of sheep, with or without the addition of a small proportion of the milk of goats. The curd is inoculated with a special mold (*Penicillium roqueforti*) and ripens with the growth of the mold. The fully ripened cheese is friable and has a mottled or marbled appearance in section.

14. **GORGONZOLA CHEESE** is the cheese made by the Gorgonzola process from curd obtained by the action of rennet on whole milk. The cheese ripens in a cool, moist atmosphere with the development of a blue-green mold and thus acquires a mottled or marbled appearance in section.

#### **Whole Milk or Partly Skimmed Milk Cheese**

\* 15. **EDAM CHEESE** is the cheese made by the Edam process from heated and pressed curd obtained by the action of rennet on whole milk or on partly skimmed milk. It is commonly made in spherical form and coated with a suitable oil and a harmless red coloring matter.

16. **EMMENTHALER CHEESE, SWISS CHEESE**, is the cheese made by the Emmenthaler process from heated and pressed curd obtained by the action of rennet on whole milk or on partly skimmed milk, and is ripened by special gas-producing bacteria, causing characteristic "eyes" or holes. The cheese is also known in the United States as "Schweizer." It contains, in the water-free substance, not less than 45 per cent of milk fat.

17. **CAMEMBERT CHEESE** is the cheese made by the Camembert process from unheated unpressed curd obtained by the action of rennet on whole milk or on slightly skimmed milk, and ripens with the growth of a special mold (*Penicillium camemberti*) on the outer surface. It contains, in the water-free substance, not less than 45 per cent of milk fat.

18. **BRIE CHEESE** is the cheese made by the Brie process from unheated unpressed curd obtained by the action of rennet on whole milk, on milk with added cream, or on slightly skimmed milk, and ripens with the growth of a special mold on the outer surface.



19. **PARMESAN CHEESE** is the cheese made by the Parmesan process from heated and hard-pressed curd obtained by the action of rennet on partly skimmed milk. The cheese, during the long ripening process, is coated with a suitable oil.

#### **Skimmed Milk Cheese**

20. **COTTAGE CHEESE, SCHMIERKASE**, is the unripened cheese made from unheated (or scalded) curd obtained by the action of lactic fermentation or lactic acid or rennet, or by any combination of these agents, on skimmed milk, with or without the addition of buttermilk. The drained curd is sometimes mixed with cream, salted, and sometimes otherwise seasoned.

#### **Whey Cheese**

21. **WHEY CHEESE** (so-called) is produced by various processes from the constituents of whey. There are a number of varieties, each of which bears a distinctive name, according to the nature of the process by which it has been produced, as, for example, "Ricotta," "Zieger," "Primost," "Mysost."

#### **Pasteurized Cheese and Emulsified Cheese**

22. **PASTEURIZED CHEESE, PASTEURIZED-BLENDED CHEESE**, is the pasteurized product made by comminuting and mixing, with the aid of heat and water, one or more lots of cheese into a homogeneous, plastic mass. The name "pasteurized cheese," "pasteurized-blended cheese," unqualified, is understood to mean pasteurized Cheddar cheese, pasteurized-blended Cheddar cheese, and applies to a product which conforms to the standard for Cheddar cheese. Pasteurized cheese, pasteurized-blended cheese bearing a varietal name, is made from cheese of the variety indicated by the name and conforms to the limits for fat and moisture for cheese of that variety.

23. **EMULSIFIED CHEESE, "PROCESS CHEESE"**, is the modified cheese made by comminuting and mixing one or more lots of cheese into a homogeneous, plastic mass with the aid of heat, with or without the addition of water, and with the incorporation of not more than 3 per cent of a suitable emulsifying agent. The name "emulsified cheese," "Process Cheese" unqualified is understood to mean emulsified Cheddar cheese, process Cheddar cheese, and applies to a product which contains not more than 40 per cent of water and, in the water-free substance, not less than 50 per cent of milk fat. Emulsified cheese, process cheese, qualified by a varietal name, is made from cheese of the variety indicated by the name, and conforms to the limits for fat and moisture for cheese of that variety.

#### **g. Miscellaneous Milk Products**

1. **WHEY** is the product remaining after the removal of fat and casein from milk in the process of cheese-making.

2. **KUMISS** is the product made by the alcoholic fermentation of mare's or cow's milk.

3. **CHOCOLATE MILK, CHOCOLATED MILK**, and similar prepared milk beverages, contain not less than ninety per cent (90%) of milk.

#### **h. Ice Creams and Other Frozen Desserts**

1. ICE CREAM is a frozen product made from cream, or milk and cream, and sugar and may contain added milk fat or added non-fat milk solids, water, with or without harmless flavoring and color, and any wholesome stabilizer, and with or without eggs. The product may be homogenized or reconstructed from any combination of the above ingredients. Ice cream shall contain not less than twelve (12%) per cent by weight of milk fat, except when fruits, nuts, cocoa or chocolate, maple syrup, cakes or confections are used for the purpose of flavoring, but in no case shall it contain less than ten (10%) per cent by weight of milk fat.

2. MILK SHERBET is a pure, clean, frozen product made from milk products, water and sugar, with harmless fruit or fruit juice flavoring, with not less than 0.35 of one per cent of acid, expressed as lactic acid, with or without color, and with or without any wholesome stabilizer. It contains not less than four (4%) per cent of milk solids and not more than three (3%) per cent by weight of milk fat.

3. ICE OR ICE SHERBET is a pure, clean frozen product made from water and sugar with harmless fruit or fruit juice flavoring with not less than 0.35 of one per cent of acid expressed as lactic acid, with or without color, and with or without any wholesome stabilizer. It contains no milk solids.

4. MALTED MILK BEVERAGE, "Malted Milk," etc., when applied to a beverage, are terms designating a viscous food beverage prepared by mixing together by means of a suitable machine whole milk, malted milk powder, ice cream, a syrup, and flavor. The flavor is commonly added in the form of a flavored syrup. This product is served at once after mixing.

5. FROSTED MALTED MILK, Frozen Malted Milk, or any frozen or semi-frozen product prepared in advance of the consumer's order, to be sold or served as malted milk, chocolate malted milk, or under any term simulating these, shall consist of ice cream mix, malted milk powder, milk and flavor. It shall be semi-liquid and shall contain not less than 10% of milk fat.

6. IMITATION ICE CREAM is any frozen substance, mixture or compound, regardless of the name under which it is sold or offered for sale, in which the freezing is accompanied by agitation of the ingredients and does not meet one of the above definitions, or weighs less than four and one-half (4½ lbs.) pounds avoirdupois per gallon (Chapter 19-0601 North Dakota Revised Code of 1943).

7. FROZEN DESSERTS must not show bacterial count in excess of 100,000 bacteria per gram.

8. PACKAGED FROZEN PRODUCTS must bear a label stating the name or class of product, the name and address of the manufacturer, jobber or other person responsible for its being placed in commerce, and the net contents contained in the package.





STATE LABORATORIES DEPARTMENT  
Bismarck, North Dakota

SUPPLEMENT TO BULLETIN NO. 76

In Bulletin No. 76, North Dakota Laws, Rules, Regulations and Standards Pertaining to Foods, Drugs, Beverages and Cosmetics, a number of definitions for food products require or permit the use of sugar with no mention of other sweetening carbohydrates. The term "sugar" unqualified is the product chemically known as sucrose (saccharose), chiefly obtained from sugar cane, sugar beets, sorghum, maple and palm. In view of the wide usage of other sweetening agents such as dextrose, syrups and honey in food products and to make these definitions more consistent with others changes are made in the definitions given in Bulletin No. 76 as directed below.

Substitute the words "either sugar, dextrose or corn syrup in liquid or dry form" for the word "sugar" where used in the sections indicated as follows:

Page 50	Regulation 17 (a) Fruit Beverages
Page 51	Regulation 17 (c) Compound Fruit Beverage
Page 51 & 52	Regulation 17 (e) Concentrates
Page 67	I B h. Ice Creams and Other Frozen Desserts Sections 1, 2, 3.
Page 67a	War-Time Standards For Ice Cream and Other Frozen Desserts. Sections - Ice Cream, Milk Sherbet, Ice or Ice Sherbet.
Page 73	II B a8. Canned Fruit II B a9. Cold-Pack Fruit
Page 74	II B d3. Canned Vegetables II B e3. Sweet Pickles

Substitute the words "either sugar, dextrose or dried corn syrup" for the word "sugar" where used in the sections indicated as follows:

Page 81	II D c9. Sweet Cocoa, Sweetened Cocoa.
Page 82	II D c10. Sweet Milk Cocoa

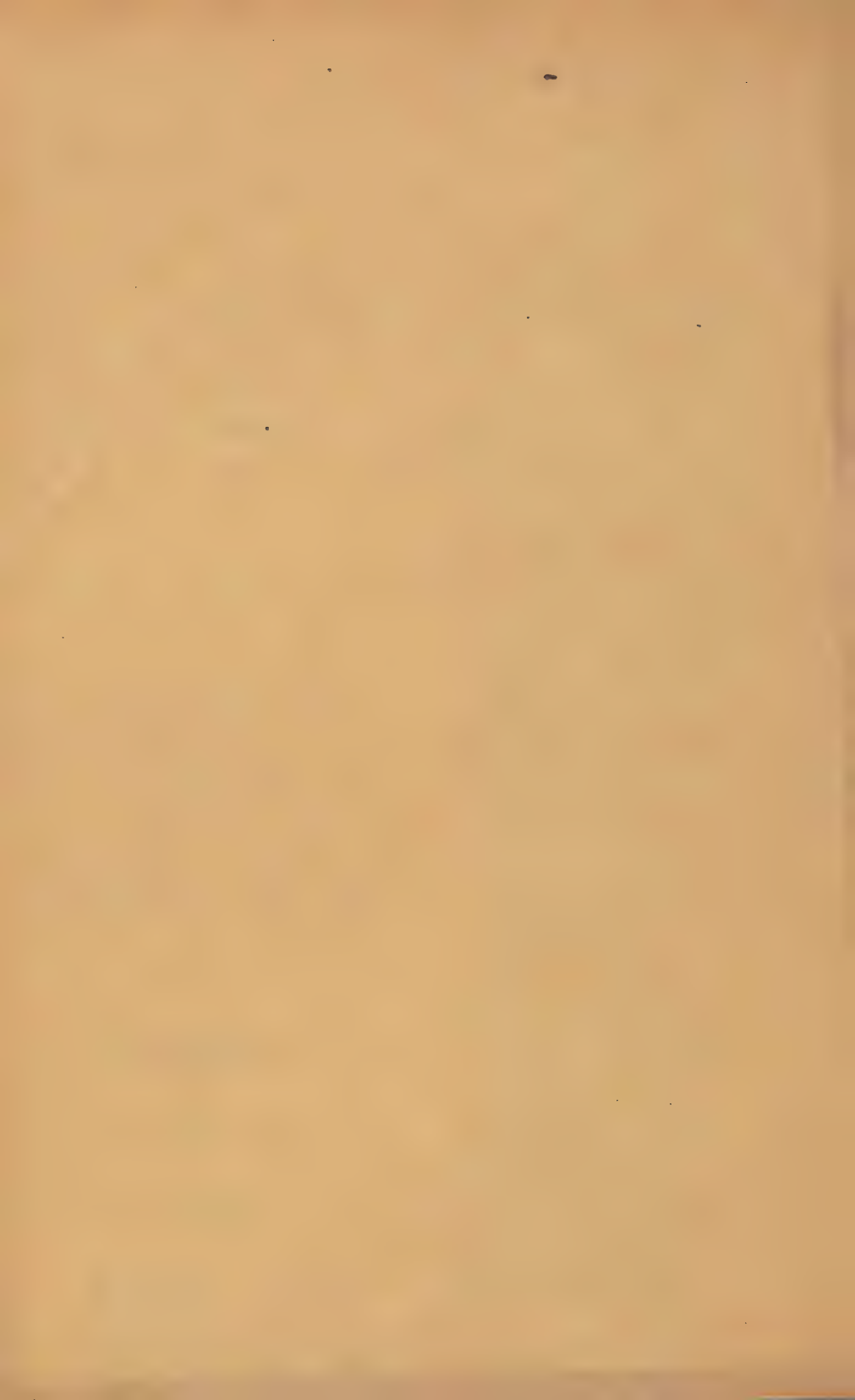
Add "corn syrup" to the list of permissible ingredients in the following sections:

Page 82	II G 1. Ginger Ale 2. Sarsaparilla 3. Root Beer
Page 83	II G. 4. Birch Beer 5. Cream Soda Water

STATE LABORATORIES DEPARTMENT

R. O. Baird  
State Food Commissioner & Chemist

The Foregoing Supplement to Bulletin No. 76  
is hereby approved:  
Dated January 13, 1947  
P. O. Sathre, Assistant Attorney General



## C. EGGS

1. **EGGS.** An egg is the mature ovum of the hen (*Gallus domesticus*). Eggs of other species of fowls should be sold under proper designation.

2. **FRESH EGGS.** A fresh egg is one that has been recently laid; it has a firm yolk, a white which is not watery and a distinct chalaza. The air cell of a fresh egg is small, the white can be easily separated from the yolk and is readily whipped into a firm, frothy condition. A fresh egg by "proper test" shall be understood to be an egg having the foregoing characteristics.

3. **EGGS, COLD STORAGE.** Cold storage eggs must be marked "Cold Storage."

## II. VEGETABLE PRODUCTS

### A. GRAIN PRODUCTS

#### a. Grain and Flours

1. **GRAIN** is the fully matured, air-dry seed of wheat, maize, rice, oats, rye, buckwheat, barley, sorghum, millet, or spelt.

2. **RICE** is the hulled, or hulled and polished, grain of *Oryza sativa* L.

a. **BROWN RICE** is the hulled, unpolished grain.

b. **POLISHED RICE**, "RICE," is the hulled grain from which the bran or pericarp has been removed by scouring and rubbing.

3. **MEAL** is the product made by coarsely grinding grain.

4. **MAIZE MEAL**, **CORN MEAL**, **INDIAN-CORN MEAL**, is meal made from maize grain and contains not more than 14 per cent of moisture, not less than 1.12 per cent of nitrogen and not more than 1.6 per cent of ash.

5. **OATMEAL** is meal made from hulled oats, and contains not more than 12 per cent of moisture, not more than 1.5 per cent of crude fiber, not less than 2.24 per cent of nitrogen, and not more than 2.2 per cent of ash.

6. **FLOUR**, **WHEAT FLOUR**, **WHITE FLOUR**, is the fine-ground product obtained in the commercial milling of wheat, and consists essentially of the starch and gluten of the endosperm. It contains not more than 15 per cent of moisture, not less than 1 per cent of nitrogen, not more than 1 per cent of ash, and not more than 0.5 per cent of fiber.

7. **WHOLE-WHEAT FLOUR**, **ENTIRE-WHEAT FLOUR**, **GRAHAM FLOUR**, is the product made by grinding wheat, and contains, in their natural proportions, all of the constituents of the cleaned grain.

8. **GLUTEN FLOUR** is the product made from wheat flour, by the removal of a large part of the starch, and contains not more than 10 per cent of moisture and, calculated on the water-free basis, not less than



7.1 per cent of nitrogen, not more than 56 per cent of nitrogen-free extract (using the protein factor 5.7), and not more than 44 per cent of starch.

9. **GROUND GLUTEN** is the product made from wheat flour by the almost complete removal of starch, and contains not more than 10 per cent of moisture and, calculated on the water-free basis, not less than 14.2 per cent of nitrogen, not more than 15 per cent of nitrogen-free extract (using the protein factor 5.7), and not more than 5.5 per cent of starch.

10. **PURIFIED MIDLINGS** is the granular product obtained in the commercial process of milling wheat, and is that portion of the endosperm retained on 10 XX silk bolting cloth. It contains no more flour than is consistent with good commercial practice, nor more than 15 per cent of moisture.

11. **SEMOLINA** is the purified midlings of durum wheat.

12. **FARINA** is the purified midlings of hard wheat other than durum.

13. **BUCKWHEAT FLOUR** is bolted buckwheat meal, and contains not more than 12 per cent of moisture, not less than 1.28 per cent of nitrogen, and not more than 1.75 per cent of ash.

14. **RYE FLOUR** is the fine-ground product made by bolting rye meal, and contains not more than 13.5 per cent of moisture, not less than 1.36 per cent of nitrogen, and not more than 1.25 per cent of ash.

#### **b. Breads**

1. **BREAD** is the product made by baking a dough consisting of a leavened or unleavened mixture of ground grain and/or other edible farinaceous substance, with potable water, and with or without the addition of other edible substances.

2. **WHITE BREAD** is the product, in the form of loaves or smaller units, obtained by baking a leavened and kneaded mixture of flour, water, salt, and yeast, with or without edible fat or oil, milk or a milk product, sugar and/or other fermentable carbohydrate substance. It may also contain diastatic and/or proteolytic ferments and such minute amounts of unobjectionable salts as serve solely as yeast nutrients. The flour ingredient may include not more than 3 per cent of other edible farinaceous substance. White bread contains, one hour or more after baking, not more than 38 per cent of moisture. The name "bread" unqualified is commonly understood to mean white bread.

3. **WHOLE-WHEAT BREAD, ENTIRE-WHEAT BREAD, GRAHAM BREAD**, is the product, in the form of loaves or smaller units, obtained by baking a leavened and kneaded mixture of whole-wheat flour, water, salt, and yeast, with or without edible fat or oil, milk or a milk product,

sugar and/or other fermentable carbohydrate substance. It may also contain diastatic and/or proteolytic ferments, and such minute amounts of unobjectionable salts as serve solely as yeast nutrients. It contains, one hour or more after baking, not more than 38 per cent of moisture.

4. MILK BREAD is the product, in the form of loaves or smaller units, obtained by baking a leavened and kneaded mixture of flour, salt, yeast, and milk or its equivalent (milk solids and water in the proportions normal to milk); with or without edible fat or oil, sugar and/or other fermentable carbohydrate substance. It may also contain diastatic and/or proteolytic ferments, and such minute amounts of unobjectionable salts as serve solely as yeast nutrients. The flour ingredient may include not more than 3 per cent of other edible farinaceous substance. Milk bread contains, one hour or more after baking, not more than 38 per cent of moisture.

5. RAISIN BREAD is the product, in the form of loaves or smaller units, obtained by baking a leavened and kneaded mixture of flour, water, salt, yeast, and raisins, with or without edible fat or oil, milk or milk product, sugar and/or other fermentable carbohydrate substance. It may contain diastatic and/or proteolytic ferments, and such minute amounts of unobjectionable salts as serve solely as yeast nutrients. The flour ingredient may include not more than 3 per cent of other edible farinaceous substance. The finished product contains not less than 3 ounces of raisins to the pound.

6. BOSTON BROWN BREAD is the product, commonly in the form of cylindrical loaves, obtained by steaming or baking a leavened mixture of rye flour or meal, corn meal, a wheat flour, molasses, salt, water, and/or a milk product, with or without raisins. Leavening is commonly effected through the use of baking powder or sodium bicarbonate and sour milk.

7. RYE BREAD is the bread obtained by baking a dough which differs from Wheat Bread Dough in that not less than one-third ( $1/3$ ) of the flour ingredient has been replaced by rye flour. It conforms to the moisture limitation for Wheat Bread.

8. ENRICHED BREAD shall comply with Federal regulations in effect at the time of sale.

#### **c. Macaroni and Noodles**

Macaroni and Noodles must be kept free from added yellow color either of coal tar or vegetable origin or any other color which may deceive or mislead the purchaser.

1. MACARONI is the shaped and dried doughs prepared by adding water to one or more of the following: Semolina, farina, wheat flour. It may contain added salt. In the finished product the moisture content does not exceed 13 per cent. Various shapes of macaroni are known under distinguishing names, such as spaghetti, vermicelli.

a. SEMOLINA MACARONI is macaroni in the preparation of which semolina is the sole farinaceous ingredient.

b. FARINA MACARONI is macaroni in the preparation of which farina is the sole farinaceous ingredient.

2. NOODLES, EGG NOODLES, are the shaped and dried doughs prepared from wheat flour and eggs, with or without water and with or without salt. The egg ingredient may be whole egg and/or egg yolk. In the finished product the moisture content does not exceed 13 per cent and the egg solids content upon the moisture-free basis is not less than 5.5 per cent. Noodles are commonly ribbon shaped.

3. Plain noodles are the shaped and dried doughs prepared from wheat flour and water, with or without salt. In the finished product the moisture content does not exceed 13 per cent. Plain noodles are commonly ribbon shaped.

## **B. FRUIT AND VEGETABLES**

### **a. Fruit and Fruit Products (Except vinegars)**

1. FRUIT is the edible, fleshy fructification of a plant, and is characterized by its sweet, acid, and/or ethereal flavor.

2. FRESH FRUIT is fruit which has undergone no material change other than ripening since the time of gathering.

#### **3. CITRUS FRUITS:**

a. GRAPE FRUIT, POMELO, is the mature fruit of *Citrus grandis* Osbeck. The juice of the mature fruit contains not less than 7 parts of soluble solids to each part of acid calculated as citric acid without water of crystallization.

b. ORANGE (common, sweet, or round) is the mature fruit of *C. sinensis* Osbeck. The juice of the mature fruit contains not less than 8 parts of soluble solids to each part of acid calculated as citric acid without water of crystallization.

4. EVAPORATED APPLES are peeled, cored, and sliced apples from which the greater portion of the moisture has been evaporated. The finished product contains not more than 24 per cent of moisture.

5. DRIED APRICOTS are halved and pitted ripe apricots from which the greater portion of the moisture has been evaporated. Before packing, the dried fruit is commonly processed by washing. The finished product contains not more than 26 per cent of moisture.

6. DRIED PEACHES are halved and pitted ripe peaches from which the greater portion of the moisture has been evaporated. Before packing, the dried fruit is commonly processed by washing. The finished product contains not more than 26 per cent of moisture.

7. DRIED PRUNES are whole ripe prune plums from which the greater portion of the moisture has been evaporated. Before packing, the dried fruit is commonly processed by treatment with boiling water



or steam. The finished product contains, in the fleshy portion, not more than 25 per cent of moisture.

8. **CANNED FRUIT** is the sound product made by sterilizing clean, sound, properly matured and prepared fresh fruit, by heating, with or without sugar and keeping in a suitable, clean, hermetically sealed container, and conforms in name to the fruit used in its preparation. When labeled with the grade, the product in the can shall comply with the standards prescribed for said grade by the Agricultural Marketing Service of the United States Department of Agriculture. Substandard canned fruits shall be labeled as required under the Federal Food and Drugs Act.

9. **COLD-PACK FRUIT** is the product obtained by packing, in a suitable container, properly prepared fresh fruit, with or without the addition of sugar and maintaining it at a temperature sufficiently low to insure its preservation.

#### **b. Fruit Juices**

1. **FRUIT JUICE** is the unfermented liquid obtained from the first pressing of sound, ripe, fresh fruit or its pulp, and conforms in name to the fruit from which it is obtained.

2. **GRAPE JUICE** is the unfermented juice of sound ripe grapes. It is obtained by a single pressing of the fruit, with or without the aid of heat, and with or without the removal of insoluble matter.

3. **ORANGE JUICE** is the unfermented juice obtained from sound, ripe, sweet oranges. It may contain a portion of the pulp and/or of the volatile oil.

#### **c. Nut and Fruit Kernel Products**

1. **ALMOND PASTE** is the plastic product obtained by cooking blanched and ground sweet almonds with blanched and ground bitter almonds, water and sugar. It contains not more than 14 per cent of water nor more than 40 per cent of total sugars expressed as invert sugar.

2. **KERNEL PASTES** are the plastic products obtained by cooking with water and sugar the blanched and ground kernels of one or more of the following: Apricots, peaches, plums (prunes). They are free from hydrocyanic acid and contain not more than 14 per cent of water nor more than 40 per cent of total sugars expressed as invert sugar. A kernel paste conforms in name to the kind or kinds of kernels employed in its production.

#### **d. Vegetables and Vegetable Products**

1. **VEGETABLES** are the succulent, clean, sound, edible parts of herbaceous plants used for culinary purposes.

2. **DRIED VEGETABLES** are the clean, sound products made by drying properly matured and prepared vegetables in such a way as to take up no harmful substance, and conform in name to the vegetables

used in their preparation; SUN-DRIED VEGETABLES are dried vegetables made by drying without the use of artificial means; EVAPORATED VEGETABLES are dried vegetables made by drying with the use of artificial means.

3. CANNED VEGETABLES are properly matured and prepared fresh vegetables, with or without the addition of potable water, salt, and sugar, as specified in the separate definitions for the several kinds of canned vegetables, sterilized by heat, with or without previous cooking, in vessels from which they take up no injurious substance, and kept in suitable, clean, hermetically-sealed containers. When labeled with the grade, the product in the can shall comply with the standards prescribed for said grade by the Agricultural Marketing Service of the United States Department of Agriculture. Substandard canned vegetables shall be labeled as required under the Federal Food and Drug Act.

#### **e. Pickles**

1. Pickles are immature cucumbers, properly prepared, without taking up any metallic compounds other than salt, and preserved in any kind of vinegar, with or without spices; pickled onions, pickled beets, pickled beans, and other pickled vegetables are vegetables prepared as described above, and conform in name to the vegetables used.

2. SALT PICKLES are immature cucumbers, preserved in a solution of common salt, with or without spices.

3. SWEET PICKLES are pickled cucumbers or other vegetables sweetened with sugar.

#### **f. Sauerkraut**

SAUERKRAUT is the product, of characteristic acid flavor, obtained by the full fermentation, chiefly lactic, of properly prepared and shredded cabbage in the presence of not less than 2 per cent nor more than 3 per cent of salt. It contains, upon completion of the fermentation, not less than 1.5 per cent of acid, expressed as lactic acid. Sauerkraut which has been rebrined in the process of canning or repacking, contains not less than 1 per cent of acid, expressed as lactic acid.

### **C. SUGARS AND RELATED SUBSTANCES**

#### **a. Sugar and Sugar Products**

1. SUGAR is the product chemically known as sucrose (saccharose), chiefly obtained from sugarcane, sugar beets, sorghum, maple, and palm.

2. GRANULATED, LOAF, CUT, MILLED, and POWDERED SUGARS are different forms of sugar, and contain at least 99.5 per cent of sucrose.

3. MAPLE SUGAR, MAPLE CONCRETE, is the solid product resulting from the evaporation of maple sap or maple sirup.

4. MASSECUITE, MELADA, MUSH SUGAR, and CONCRETE are products made by evaporating the purified juice of a sugar-producing

plant, or a solution of sugar, to a solid or semisolid consistence, and in which the sugar chiefly exists in a crystalline state.

5. **MOLASSES** is the product left after separating the sugar from massecuite, melada, mush sugar, or concrete, and contains not more than 25 per cent of water and not more than 5 per cent of ash.

6. **REFINERS SIRUP** is the residual liquid product obtained in the process of refining raw cane sugars, and contains not more than 25 per cent of water and not more than 8 per cent of ash.

7. **SUGAR CANE SIRUP** is sirup made by the evaporation of the juice of the sugar cane or by the solution of sugar cane concrete, and contains not more than 30 per cent of water and not more than 2.5 per cent of ash.

8. **MAPLE SIRUP** is sirup made by the evaporation of maple sap or by the solution of maple concrete, and contains not more than 35 per cent of water, and weighs not less than 11 pounds to the gallon (231 cubic inches).

9. **SUGAR SIRUP** is the product made by dissolving sugar to the consistence of a sirup and contains not more than 35 per cent of water.

10. **SORGHUM SIRUP** is the sirup obtained by the clarification and concentration of the juice of the sugar sorghum and contains not more than 30 per cent of water, nor more than 6.25 per cent of ash calculated on a dry basis.

#### **b. Dextrose and Related Products**

1. **DEXTROSE** is the product chiefly made by the hydrolysis of starch or a starch-containing substance, followed by processes of refining and crystallization.<sup>2</sup>

a. **ANHYDROUS DEXTROSE** contains not less than 99.5 per cent of dextrose and not more than 0.5 per cent of moisture.

b. **HYDRATED DEXTROSE** contains not less than 90 per cent of dextrose and not more than 10 per cent of moisture, including water of crystallization.

2. **GLUCOSE, MIXING GLUCOSE, CONFECTIONER'S GLUCOSE**, is a thick, sirupy, colorless product made by incompletely hydrolyzing starch, or a starch-containing substance, and decolorizing and evaporating the product. It contains on a basis of 41° Baume not more than 1 per cent of ash, consisting chiefly of chlorides and sulphates.

#### **c. Candy**

1. **CANDY** is a product made from a saccharine substance or substances, with or without the addition of harmless coloring, flavoring, or filling materials, and contains no terra alba, barytes, talc, chrome yellow, or other mineral substances, or poisonous colors or flavors, or other ingredients deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound, or narcotic drug.



#### d. Honey

1. HONEY is the nectar and saccharine exudations of plants gathered, modified, and stored in the comb of honeybees (*Apis mellifera* and *A. dorsata*), is levorotatory, and contains not more than 25 per cent of water, not more than 0.25 per cent of ash, and not more than 8 per cent of sucrose.

2. COMB HONEY is honey contained in the cells of comb.

3. EXTRACTED HONEY is honey which has been separated from the uncrushed comb by centrifugal force or gravity.

4. STRAINED HONEY is honey removed from the crushed comb by straining or other means.

#### D. CONDIMENTS (EXCEPT VINEGARS)

##### a. Spices

The term "dried" as used in this schedule refers to the airdried product. The term "starch" as used in this schedule refers to starch as determined by the official method. In the examination of the products listed in this schedule the methods of analysis of the Association of Official Agricultural Chemists should be followed. Products official in the United States Pharmacopoeia, National Formulary, or Homeopathic Pharmacopoeia of the U. S. shall comply with the definitions and standards given in the official compendium.

1. SPICES are aromatic vegetable substances used for the seasoning of food. They are true to name, and from them no portion of any volatile oil or other flavoring principle has been removed.

2. PAPRIKA is the dried, ripe fruit of *Capsicum annum* L. It contains not more than 8.5 per cent of total ash, nor more than 1 per cent of ash insoluble in hydrochloric acid. The iodine number of its extracted oil is not less than 125, nor more than 136.

3. HUNGARIAN PAPRIKA is paprika having the pungency and flavor characteristic of that grown in Hungary.

a. ROSENPAPRIKA, ROSAPAPRIKA, ROSE PAPRIKA, is Hungarian paprika prepared by grinding specially selected pods of paprika, from which the placenta, stalks, and stems have been removed. It contains no more seeds than the normal pods, not more than 18 per cent of nonvolatile ether extract, not more than 23 per cent of crude fiber, not more than 6 per cent of total ash, nor more than 0.4 per cent of ash insoluble in hydrochloric acid.

b. KOENIGSPAPRIKA, KING'S PAPRIKA, is Hungarian paprika prepared by grinding whole pods of paprika without selection, and includes the seeds and stems naturally occurring with the pods. It contains not more than 18 per cent of nonvolatile ether extract, not more than 23 per cent of crude fiber, not more than 6.5 per cent of total ash, nor more than 0.5 per cent of ash insoluble in hydrochloric acid.

<sup>2</sup>When derived from corn starch, dextrose is known commercially as refined corn sugar.

4. **PIMENTON, PIMIENTO, SPANISH PAPRIKA**, is paprika having the characteristics of that grown in Spain. It contains not more than 18 per cent of nonvolatile ether extract, not more than 21 per cent of crude fiber, not more than 8.5 per cent of total ash, nor more than 1 per cent of ash insoluble in hydrochloric acid.

5. **CUMIN SEED** is the dried fruit of *Cuminum cyminum* L. It contains not more than 7 per cent total ash, not more than 1.5 per cent of ash insoluble in hydrochloric acid, nor more than 5 per cent of harmless foreign matter.

6. **CURCUMA, TURMERIC**, is the dried rhizome or bulbous root of *Curcuma longa* L.

7. **DILL SEED** is the dried fruit of *Anethum graveolens* L. It contains not more than 10 per cent of total ash, not more than 3 per cent of ash insoluble in hydrochloric acid.

8. **HORSE-RADISH** is the root of *Radicula armoracia* (L.) Robinson.

9. **PREPARED HORSE-RADISH** is comminuted horse-radish, with or without a vinegar.

10. **GROUND MUSTARD SEED, MUSTARD MEAL**, is the unbolted, ground mustard seed and conforms to the standards for mustard seed.

11. **MUSTARD CAKE** is ground mustard seed, mustard meal, from which a portion of fixed oil has been removed.

12. **MUSTARD FLOUR, GROUND MUSTARD, "MUSTARD,"** is the powder made from mustard seed with the hulls largely removed and with or without the removal of a portion of the fixed oil. It contains not more than 1.5 per cent of starch, nor more than 6 per cent of total ash.

13. **PREPARED MUSTARD** is a paste composed of a mixture of ground mustard seed and/or mustard flour and/or mustard cake, with salt, a vinegar, and with or without sugar, spices or other condiments. In the fat, salt, and sugar free solids it contains not more than 24 per cent of carbohydrates, not more than 12 per cent of crude fiber, nor less than 5.6 per cent of nitrogen, the carbohydrates being calculated as starch.

14. **SAVORY, SUMMER SAVORY**, is the dried leaves and flowering tops of *Satureja hortensis* L.

#### **b. Flavoring Extracts**

1. A **FLAVORING EXTRACT**<sup>3</sup> is a solution in ethyl alcohol of proper strength of the sapid and odorous principles derived from an aromatic plant or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation.

2. **ALMOND EXTRACT** is the flavoring extract prepared from oil of bitter almonds, free from hydrocyanic acid, and contains not less than 1 per cent by volume of oil of bitter almonds.

3. **ANISE EXTRACT** is the flavoring extract prepared from oil of anise, and contains not less than 3 per cent by volume of oil of anise.

4. CELERY SEED EXTRACT is the flavoring extract prepared from celery seed or the oil of celery seed, or both, and contains not less than 0.3 per cent by volume of oil of celery seed.

5. CINNAMON EXTRACT, CASSIA EXTRACT, CASSIA CINNAMON EXTRACT, is the flavoring product prepared from oil of cinnamon, and contains not less than 2 per cent by volume of oil of cinnamon.

6. CEYLON CINNAMON EXTRACT is the flavoring extract prepared from oil of Ceylon cinnamon, and contains not less than 2 per cent by volume of oil of Ceylon cinnamon.

7. CLOVE EXTRACT is the flavoring extract prepared from oil of cloves, and contains not less than 2 per cent by volume of oil of cloves.

8. GINGER EXTRACT is the flavoring extract prepared from ginger, and contains in each 100 cubic centimeters the alcohol-soluble matters from not less than 20 grams of ginger.

9. LEMON EXTRACT is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than 5 per cent by volume of oil of lemon.

10. TERPENELESS EXTRACT OF LEMON is the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or by dissolving terpeneless oil of lemon in dilute alcohol, and contains not less than 0.2 per cent by weight of citral derived from oil of lemon.

11. NUTMEG EXTRACT is the flavoring extract prepared from oil of nutmeg, and contains not less than 2 per cent by volume of oil of nutmeg.

12. ORANGE EXTRACT is the flavoring extract prepared from oil of orange, or from orange peel, or both, and contains not less than 5 per cent by volume of oil of orange.

13. TERPENELESS EXTRACT OF ORANGE is the flavoring extract prepared by shaking oil of orange with dilute alcohol, or by dissolving terpeneless oil of orange in dilute alcohol, and corresponds in flavoring strength to orange extract.

14. PEPPERMINT EXTRACT is the flavoring extract prepared from oil of peppermint, or from peppermint, or both, and contains not less than 3 per cent by volume of oil of peppermint.

15. ROSE EXTRACT is the flavoring extract prepared from attar of roses, with or without red rose petals, and contains not less than 0.4 per cent by volume of attar of roses.

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<sup>3</sup>The flavoring extracts herein described are intended solely for food purposes and are not to be confounded with similar preparations described in the Pharmacopœia for medicinal purposes.



16. **SAVORY EXTRACT** is the flavoring extract prepared from oil of savory, or from savory, or both, and contains not less than 0.35 per cent by volume of oil of savory.

17. **SPEARMINT EXTRACT** is the flavoring extract prepared from oil of spearmint, or from spearmint, or both, and contains not less than 3 per cent by volume of oil of spearmint.

18. **STAR ANISE EXTRACT** is the flavoring extract prepared from oil of star anise, and contains not less than 3 per cent by volume of oil of star anise.

19. **SWEET BASIL EXTRACT** is the flavoring extract prepared from oil of sweet basil, or from sweet basil, or both, and contains not less than 0.1 per cent by volume of oil of sweet basil.

20. **SWEET MARJORAM EXTRACT, MARJORAM EXTRACT**, is the flavoring extract prepared from the oil of marjoram, or from marjoram, or both, and contains not less than 1 per cent by volume of oil of marjoram.

21. **THYME EXTRACT** is the flavoring extract prepared from oil of thyme, or from thyme, or both, and contains not less than 0.2 per cent by volume of oil of thyme.

22. **TONKA EXTRACT** is the flavoring extract prepared from tonka bean, with or without one or more of the following: Sugar, dextrose, glycerin. It contains not less than 0.1 per cent by weight of coumarin extracted from the tonka bean, together with a corresponding proportion of the other soluble matters thereof.

23. **VANILLA EXTRACT** is the flavoring extract prepared from vanilla bean. One U. S. gallon of vanilla extract should contain the soluble matter from not less than 13.35 ounces (avoirdupois) of vanilla beans. The finished extract should contain at least 35% of alcohol by volume.

23 a. **IMITATION VANILLA FLAVOR.** A solution, chiefly aqueous, of vanilla-like flavoring materials, with or without sugar, glycerol and/or caramel color, and with or without ethyl alcohol not in excess of 5 per cent by volume. The flavoring ingredients consist of vanillin or ethyl vanillin, or a mixture of the two, equivalent in flavoring value to 0.35 gram of vanillin in each 100 cc., and additional flavoring material consisting of either vanillin, ethyl vanillin, coumarin, heliotropin or vanilla, or a mixture of any or all of these equivalent in flavoring strength to not less than 0.35 gram of vanillin in each 100 cc. In computing flavoring strength it is assumed that ethyl vanillin and coumarin each has three times the flavoring strength of vanillin; oleoresin vanilla, one-sixth the flavoring strength of vanillin; and that standard extract of vanilla is equivalent in flavoring strength to a 0.7 per cent vanillin solution. If the flavoring strength of the preparation be a multiple of

the minimum values herein prescribed, the product must be labeled "double strength," "triple strength" or otherwise, as the case may be. Note:—Imitations are required by law to be labeled to declare all ingredients.

23 b. VANILLA-VANILLIN-COUMARIN FLAVOR; VANILLA-VANILLIN-COUMARIN EXTRACT. A flavoring product which contains not less than 50 per cent by volume of standard extract of vanilla and sufficient vanillin and coumarin to be equivalent in flavoring value to 0.35 gram or less of vanillin in each 100 cc. of the finished product, the total flavoring strength being at least equal to a 0.7 per cent vanillin solution. It contains not less than 20 per cent and not more than 30 per cent of alcohol in the finished product and may contain sugar or glycerine, or both. In computing flavoring strength, it is assumed that ethyl vanillin and coumarin each has three times the flavoring strength of vanillin; oleoresin vanilla, one-sixth the flavoring strength of vanillin; and that standard extract of vanilla is equivalent to a 0.7 per cent vanillin solution. If the flavoring strength of the preparation be a multiple of the flavoring strength of a 0.7 per cent vanillin solution, the product must be labeled "double strength," "triple strength" or otherwise, as the case may be. Note:—Compounds are required by law to be labeled to declare all ingredients.

24. WINTERGREEN EXTRACT is the flavoring extract prepared from oil of wintergreen, and contains not less than 3 per cent by volume of oil of wintergreen.

### c. Mayonnaise Dressing

MAYONNAISE, MAYONNAISE DRESSING, MAYONNAISE SALAD DRESSING, is the semi-solid emulsion of edible vegetable oil, egg yolk, or whole egg, a vinegar, and/or lemon juice, with one or more of the following: Salt, other seasoning commonly used in its preparation and sugar. The finished product contains not less than 50 per cent of edible vegetable oil.

## E. TEA, COFFEE, AND CACAO PRODUCTS

### a. Tea

1. TEA is the tender leaves, leaf buds, and tender internodes of different varieties of *Thea sinensis* L., prepared and cured by recognized methods of manufacture. It conforms in variety and place of production to the name it bears; contains not less than 4 per cent nor more than 7 per cent of ash; and meets the provisions of the Act of Congress approved March 2, 1897, as amended, regulating the importation and inspection of tea.

### b. Coffee

1. COFFEE is the seed of cultivated varieties of *Coffea arabica*, *C. liberica*, and *C. robusta*.

a. GREEN COFFEE, RAW COFFEE, UNROASTED COFFEE, is coffee freed from all but a small portion of its spermoderm, and conforms in variety and in place of production to the name it bears.

b. ROASTED COFFEE, "COFFEE," is properly cleaned green coffee which by the action of heat (roasting) has become brown and has developed its characteristic aroma.

### c. Cacao Products

1. CACAO BEANS, COCOA BEANS, are the seeds of trees belonging to the genus *Theobroma*, especially those of the *Theobroma cacao* L. and closely related species.

2. CACAO NIBS, COCOA NIBS, "CRACKED COCOA," are roasted or dried cacao beans, broken and freed from germ and from shell or husk.

3. CACAO BUTTER, COCOA BUTTER. (See Edible Vegetable Oils and Fats.)

4. CHOCOLATE, PLAIN CHOCOLATE, BITTER CHOCOLATE, CHOCOLATE LIQUOR, CHOCOLATE PASTE, BITTER CHOCOLATE COATING, is the solid or plastic mass obtained by grinding cacao nibs, and contains not less than 50 per cent of cacao fat and, on the moisture and fat-free basis, not more than 8 per cent of total ash, not more than 0.4 per cent of ash insoluble in hydrochloric acid, and not more than 7 per cent of crude fiber.

5. SWEET CHOCOLATE, SWEET CHOCOLATE COATING, is chocolate mixed with sugar, with or without the addition of cacao butter, spices, or other flavoring materials, and contains, on the moisture, sugar, and fat-free basis, no greater percentage of total ash, ash insoluble in hydrochloric acid, or crude fiber, respectively, than is found in moisture and fat-free chocolate.

6. MILK CHOCOLATE, SWEET MILK CHOCOLATE, is the product obtained by grinding chocolate with sugar, with the solids of whole milk, or the constituents of milk solids in proportions normal for whole milk, and with or without cacao butter, and/or flavoring material. It contains not less than 12 per cent of milk solids.

7. COCOA, POWDERED COCOA, is chocolate deprived of a portion of its fat and pulverized, and contains, on the moisture and fat-free basis, no greater percentage of total ash, ash insoluble in hydrochloric acid, or crude fiber, respectively, than is found in moisture and fat-free chocolate.

8. "BREAKFAST COCOA" is cocoa which contains not less than 22 per cent of cacao fat.

9. SWEET COCOA, SWEETENED COCOA, is cocoa mixed with sugar and contains not more than 65 per cent of total sugars in the finished product, and, on the moisture, sugar, and fat-free basis, no



greater percentage of total ash, ash insoluble in hydrochloric acid, or crude fiber, respectively, than is found in moisture and fat-free chocolate.

10. SWEET MILK COCOA is the product obtained by grinding cocoa with sugar, with the solids of whole milk, or the constituents of milk solids in proportions normal for whole milk, and with or without flavoring material. It contains not less than 12 per cent of milk solids.

11. DUTCH-PROCESS CHOCOLATE, "ALKALIZED CHOCOLATE," and DUTCH-PROCESS COCOA, "ALKALIZED COCOA," are modifications, respectively, of chocolate and cocoa, in that in their manufacture an alkali carbonate or other suitable alkaline substance has been employed. In the preparation of these products not more than 3 parts by weight of potassium carbonate, or the neutralizing equivalent thereof in other alkaline substance, are added to each 100 parts by weight of cacao nibs. The finished products conform to the standards for chocolate and cocoa, respectively, due allowance being made for the kind and amount of alkaline substance added.

## G. BEVERAGES

### Carbonated Beverages and Beverage Flavors

1. GINGER ALE is the carbonated beverage prepared from ginger ale flavor, harmless organic acid, potable water, and a sirup of one or more of the following: Sugar, invert sugar, dextrose; with or without the addition of caramel color.

1 a. GINGER ALE FLAVOR, GINGER ALE CONCENTRATE, is the beverage flavor in which ginger is the essential constituent, with or without aromatic and pungent ingredients, citrus oils, fruit juices, and caramel color.

2. SARSAPARILLA is the carbonated beverage prepared from sarsaparilla flavor, potable water and a sirup of one or more of the following: Sugar, invert sugar, dextrose; with or without harmless organic acid, and with or without the addition of caramel color.

2 a. SARSAPARILLA FLAVOR is the beverage flavor prepared from oil of sassafras and methyl salicylate (or oil of wintergreen or oil of sweet birch) with or without other aromatic and flavoring substances and caramel color. It derives its characteristic flavor from oil of sassafras and methyl salicylate.

3. ROOT BEER is the carbonated beverage prepared from root beer flavor, potable water, and a sirup of one or more of the following: Sugar, invert sugar, dextrose; with or without harmless organic acid, and with or without the addition of caramel color.

3 a. ROOT BEER FLAVOR, ROOT BEER CONCENTRATE, is the beverage flavor in which oil of sassafras and methyl salicylate (or oil of wintergreen or oil of sweet birch) are the principal flavoring constituents, and contains other flavoring substances, with or without the addition of caramel color.

4. BIRCH BEER is the carbonated beverage prepared from birch beer flavor, potable water, and a sirup of one or more of the following: Sugar, invert sugar, dextrose; with or without harmless organic acid, and with or without the addition of caramel color.

4 a. BIRCH-BEER FLAVOR, BIRCH-BEER CONCENTRATE, is the beverage flavor in which methyl salicylate (or oil of sweet birch or oil of wintergreen) and oil of sassafras are the principal flavoring constituents, with or without other flavoring substances, and with or without caramel color. The flavor of methyl salicylate predominates.

5. CREAM SODA WATER, "CREAM SODA," is the carbonated beverage prepared from cream soda water flavor, potable water, and a sirup of one or more of the following: Sugar, invert sugar, dextrose, with or without harmless organic acid, and with or without the addition of caramel color.

5 a. CREAM SODA WATER FLAVOR, CREAM SODA WATER CONCENTRATE, is the beverage flavor prepared from vanilla, tonka, vanillin, or coumarin, singly or in combination, together with other flavoring substances; with or without the addition of caramel color.

#### H. VINEGAR

1. VINEGAR, CIDER VINEGAR, APPLE VINEGAR, is the product made by the alcoholic and subsequent acetous fermentations of the juice of apples, is laevorotatory, and contains not less than four (4) grams of acetic acid, not less than one and six-tenths (1.6) grams of apple solids, of which not more than fifty per cent (50%) are reducing sugars, and not less than twenty-five hundredths (0.25) gram of apple ash in one hundred (100) cubic centimeters (20° C.); and the water-soluble ash from one hundred (100) cubic centimeters (20° C.) of the vinegar contains not less than ten (10) milligrams of phosphoric acid ( $P_2O_5$ ), and requires not less than thirty (30) cubic centimeters of decinormal acid to neutralize its alkalinity.

2. WINE VINEGAR, GRAPE VINEGAR, is the product made by the alcoholic and subsequent acetous fermentations of the juice of grapes, and contains, in one hundred (100) cubic centimeters (20° C.), not less than four (4) grams of acetic acid, not less than one (1.0) gram of grape solids, and not less than thirteen hundredths (0.13) gram of grape ash.

3. MALT VINEGAR is the product made by alcoholic and subsequent acetous fermentations, without distillation, of an infusion of barley malt or cereals whose starch has been converted by malt, is dextrorotatory, and contains in one hundred (100) cubic centimeters (20° C.), not less than four (4) grams of acid, not less than two (2) grams of solids, and not less than two-tenths (0.2) gram of ash; and the water-soluble ash from one hundred (100) cubic centimeters (20° C.) of the vinegar contains not less than nine (9) milligrams of phosphoric

acid ( $P_2O_5$ ), and requires not less than four (4) cubic centimeters of decinormal acid to neutralize its alkalinity.

4. SUGAR VINEGAR is the product made by the alcoholic and subsequent acetous fermentations of solutions of sugar, sirup, molasses, or refiners' sirup, and contains, in one hundred (100) cubic centimeters ( $20^\circ$  C.), not less than four (4) grams of acetic acid.

5. GLUCOSE VINEGAR is the product made by the alcoholic and subsequent acetous fermentations of solutions of starch, sugar or glucose, is dextrorotatory, and contains, in one hundred (100) cubic centimeters ( $20^\circ$  C.), not less than four (4) grams of acetic acid.

6. SPIRIT VINEGAR, DISTILLED VINEGAR, GRAIN VINEGAR, is the product made by the acetous fermentation of dilute distilled alcohol, and contains, in one hundred (100) cubic centimeters ( $20^\circ$  C.), not less than four (4) grams of acetic acid.

### III. SALT

TABLE SALT, DAIRY SALT, is fine-grained crystalline salt containing, on a water-free basis, not more than 1.4 per cent of calcium sulphate ( $CaSO_4$ ), not more than 0.5 per cent of calcium and magnesium chlorides ( $CaCl_2$  and  $MgCl_2$ ), not more than 0.1 per cent of material insoluble in water.

Pending further announcement, no exception will be taken to table salt that meets the requirements of the standard except that it contains anhydrous calcium sulphate (anhydrite) in excess of 0.1 per cent, provided that the total calcium sulphate content does not exceed 1.4 per cent.

### IV. BAKING POWDER

BAKING POWDER is the leavening agent produced by the mixing of an acid-reacting material and sodium bicarbonate, with or without starch or flour.

It yields not less than 12 per cent of available carbon dioxide.

The acid-reacting materials in baking powder are: (1) Tartaric acid or its acid salts, (2) acid salts of phosphoric acid, (3) compounds of aluminum, or (4) any combination in substantial proportions of the foregoing.



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